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8 block)

9
10 *Attorneys for Plaintiff*
11 *RSI Rock Solid Industries International*
12 *(Pty) Ltd.*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 RSI ROCK SOLID INDUSTRIES
17 INTERNATIONAL (PTY) LTD.,

18 Plaintiff,

19 v.

20 BYND, INC.,

21 Defendant.

Case No. 5:23-cv-01823

**ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff, RSI Rock Solid Industries International (Pty) Ltd. (“RSI”), files this
2 complaint for patent infringement against BYND, Inc. d/b/a Bynd 4x4, Inc. (“Bynd”)
3 and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is a civil action arising under the patent laws of the United States, 35
6 U.S.C. § 1 *et seq.*, including specifically 35 U.S.C. §§ 271 and 289, based on Bynd’s
7 infringement of U.S. Design Patent Nos. D961,492 (the “’492 Patent” or “Patent-in-
8 Suit”).

9 2. A true and accurate copy of the ’492 Patent is attached as Exhibit A to this
10 Complaint.

11 **THE PARTIES**

12 3. RSI Rock Solid Industries International (Pty) Ltd. (“RSI”) is a limited
13 liability company with an office at 1501 Joel East Rd., Fort Worth, TX 76140.

14 4. Upon information and belief, Bynd is a California Corporation with a
15 principal place of business in 2765 E. Black Horse Drive, Ontario, CA 91761.

16 **JURISDICTION AND VENUE**

17 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331
18 and 1338(a) because the claims herein arise under the patent laws of the United States,
19 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271 and 289.

20 6. This Court has general and specific personal jurisdiction over Bynd in this
21 action at least because Bynd resides in the State of California where it is incorporated
22 and has a registered agent for service of process, and Bynd has committed infringing
23 acts within this District giving rise to this action, and Bynd has established minimum
24 contacts with this forum such that the exercise of jurisdiction over Bynd would not
25 offend traditional notions of fair play and substantial justice.

26 7. Bynd conducts systematic and regular business within the State of
27 California by at least residing in this District.

8. Bynd regularly does or solicits business in this District and has committed one or more acts of patent infringement in this District. For example, Bynd has provided through its website the Tactical Cap (Tacoma Short Bed 2016 - 2023), Tactical Cap (Tacoma Long Bed 2016 - 2023), Tactical Cap (Tundra Gen 3), Tactical Cap (Ford F150 Shortbed - 2020), Tactical Cap (Tacoma Long Bed 2005 - 2015), Tactical Cap (Jeep Gladiator JT 2020-2023), Tactical Cap (Tundra Gen 2 - 6.5' Bed), Tactical Cap (Tundra Gen 2 - 5.5' Bed) and Steel Tactical Cap - 2nd Gen Tundra - 6.5' Bed) and products that operate in a similar manner (the "Accused Products").

9. Upon information and belief, Bynd owns and stores equipment such as modular truck cap systems within the District, such as those described on the "installation" portion of Bynd's website here: <https://www.bynd4x4.com/products/installation> (last visited: Sept. 4, 2023).

10. Venue in this District is proper under 28 U.S.C. § 1400(b) because, on information and belief, Bynd is incorporated in California with a registered business address in this District.

11. Venue is further proper because Bynd has committed and continues to commit acts of patent infringement in this District, including making, using, offering to sell, and/or selling Accused Products in this District, and/or importing the Accused Products into, and thereafter providing Accused Products in, this District, including by Internet sales.

FACTUAL BACKGROUND

12. RSI was founded in South Africa by Mike Voss and others. RSI was responsible for the development of the initial versions of the SmartCap® truck canopy systems. It also developed other outdoor modular accessories to add increased function to the SmartCap® products for consumer use.

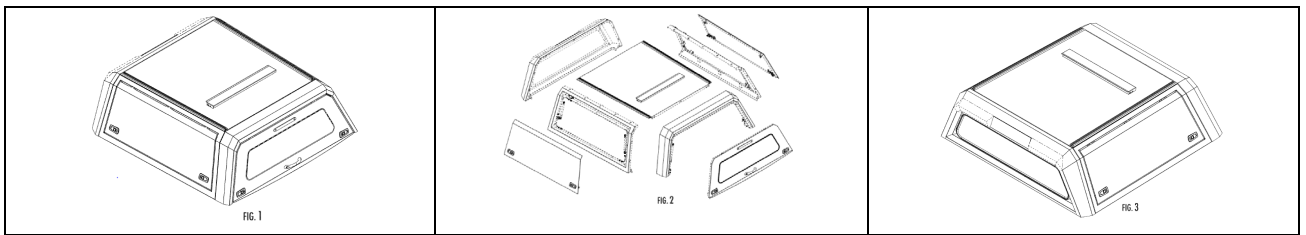
13. RSI has continued to be a market leader for vehicle canopy systems, innovating new designs and implementing cutting edge technology to allow increased cargo weight and maintaining a lightweight frame design.

23. The '492 Patent was duly and legally issued by the United States Patent and Trademark Office on August 23, 2022, from Application Serial No. 29/707,700, filed on September 30, 2019, and is valid and enforceable.

24. RSI is the owner by assignment to all right, title, and interest to the '492 Patent.

25. The '492 Patent generally describes an ornamental design for a canopy for a truck, or similar vehicle, and is entitled "CANOPY FOR A VEHICLE, TRUCK, LIGHT DELIVERY VEHICLE OR SIMILAR VEHICLE."

26. The '492 Patent discloses and claims the non-functional ornamental design aspects for a modular vehicle canopy, which is described and shown from multiple perspectives in Figures 1–3, reproduced below.



27. RSI's SmartCap® truck cap system is an example of the ornamental design disclosed and claimed by the '492 Patent. The catalogue can be found at: https://drive.google.com/file/d/1-uOKFxLu0acz14XbrrhAVu_h_3JxO_-S/view?usp=sharing (last visited: Sept. 4, 2023).

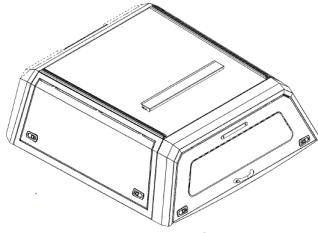

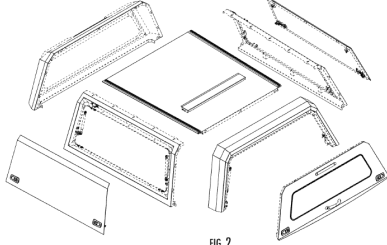



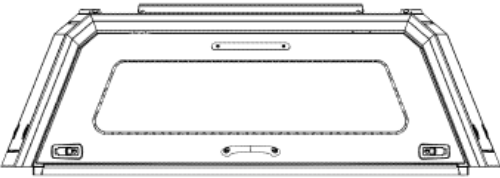

28. Images of samples of the Accused Products are identified in the charts below.

29. On information and belief, the Accused Products are designed for use in the open bed of a vehicle.

30. Notwithstanding RSI's rights, Bynd, without permission or authorization, has imported, offered for sale, and/or sold certain vehicle canopy systems including at least the Accused Products along with any other similarly configured products, which

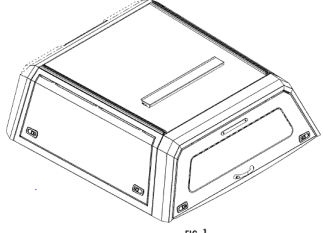

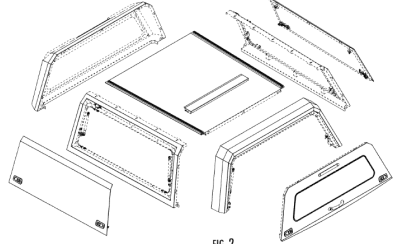

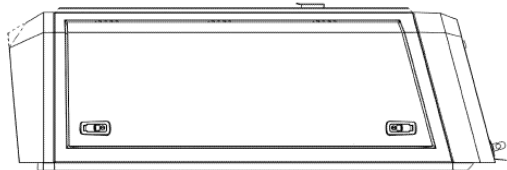

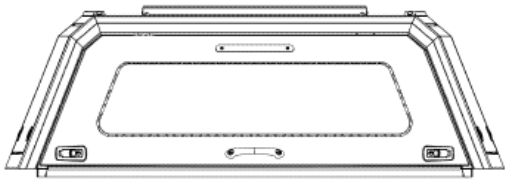

each infringe the claim of the Patent-in-Suit. As the exemplary side-by-side comparisons shown below demonstrate, Bynd has copied RSI's patented SmartCap® designs in the Accused Products.

31. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tacoma Short Bed 2016–2023), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-short-bed-2016-2022> (last visited: Sept. 4, 2023).

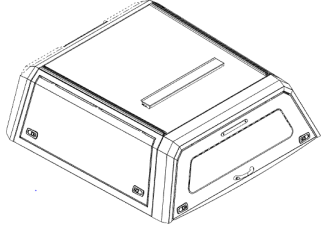

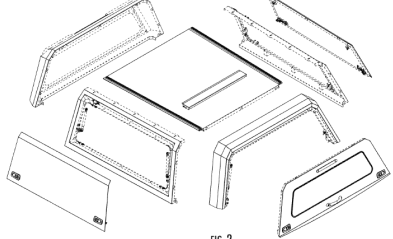

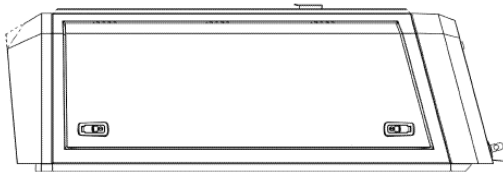

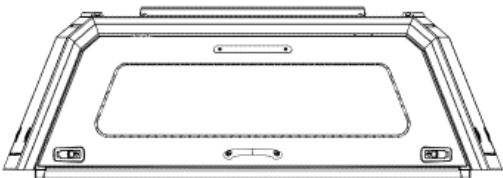

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1		
Fig. 2		
Fig. 7		
Fig. 9		

32. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tacoma Long Bed 2016–2023), which is available

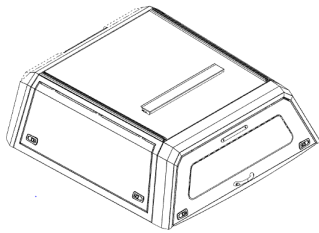

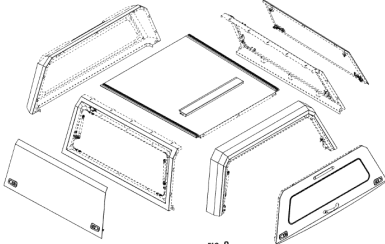

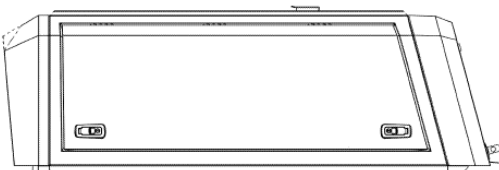

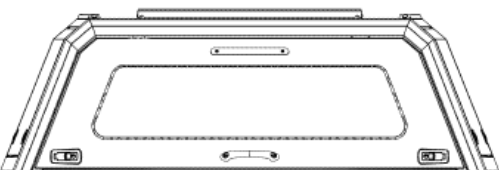

online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2016-2022> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1		
Fig. 2		
Fig. 7		
Fig. 9		

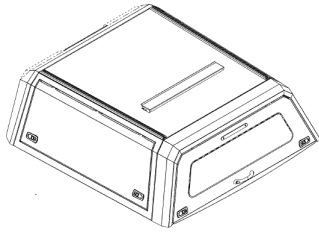

33. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tundra Gen 3), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-3> (last visited: Sept. 4, 2023).

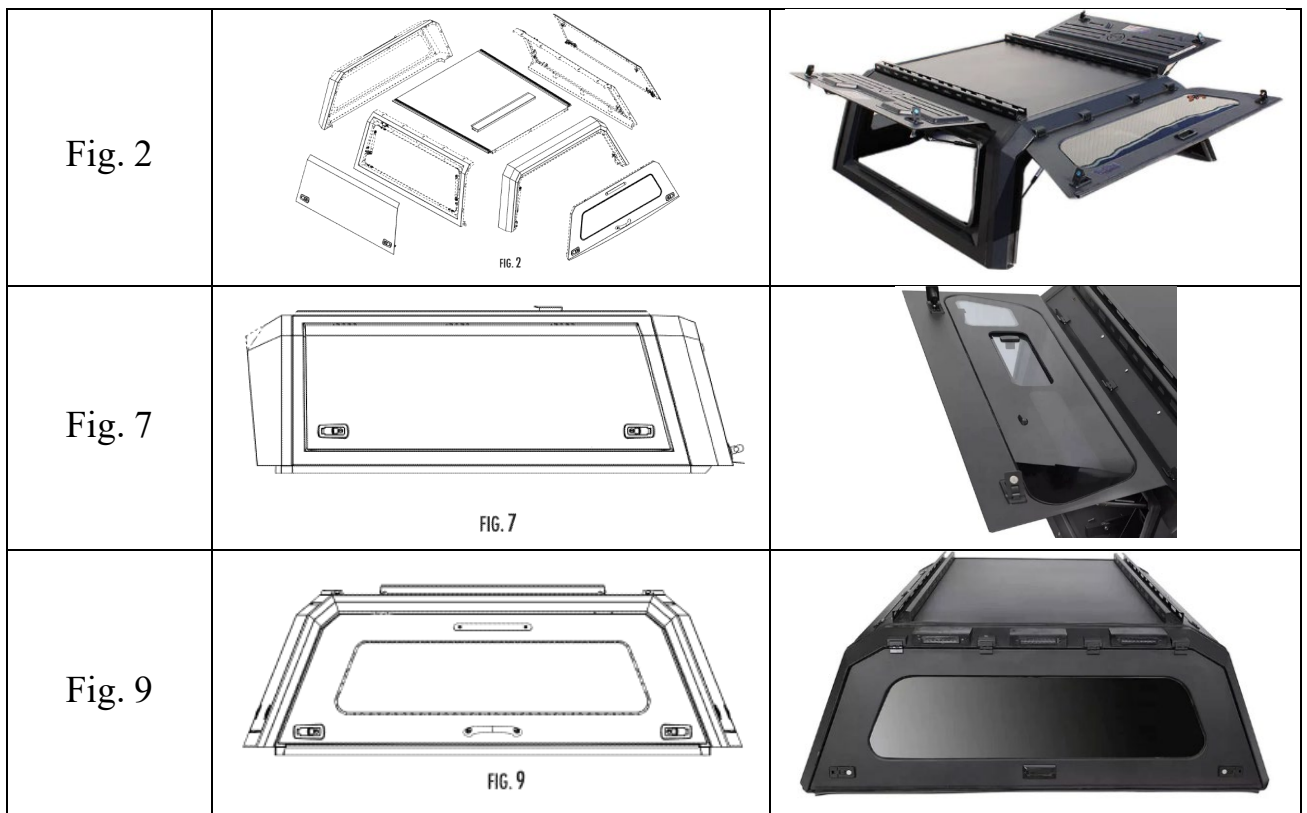
<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 <p>FIG. 1</p>	
Fig. 2	 <p>FIG. 2</p>	
Fig. 7	 <p>FIG. 7</p>	
Fig. 9	 <p>FIG. 9</p>	

34. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Ford F150 Shortbed-2020), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-ford-f150-shortbed-2020> (last visited: Sept. 4, 2023).

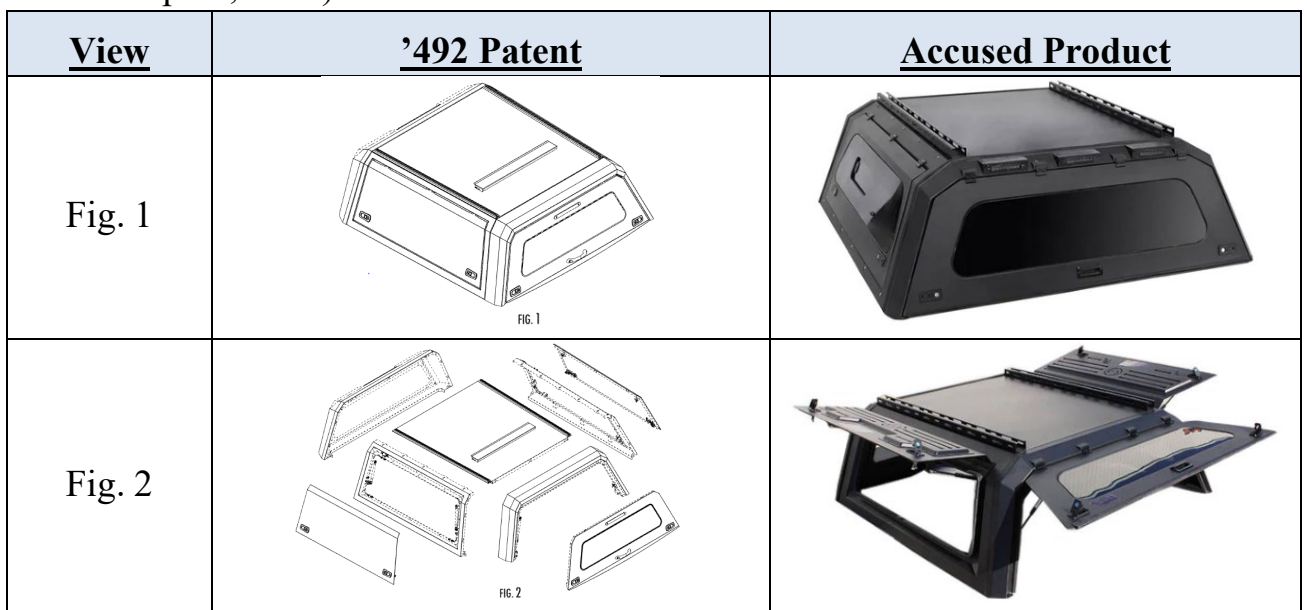
<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 7	 FIG. 7	
Fig. 9	 FIG. 9	

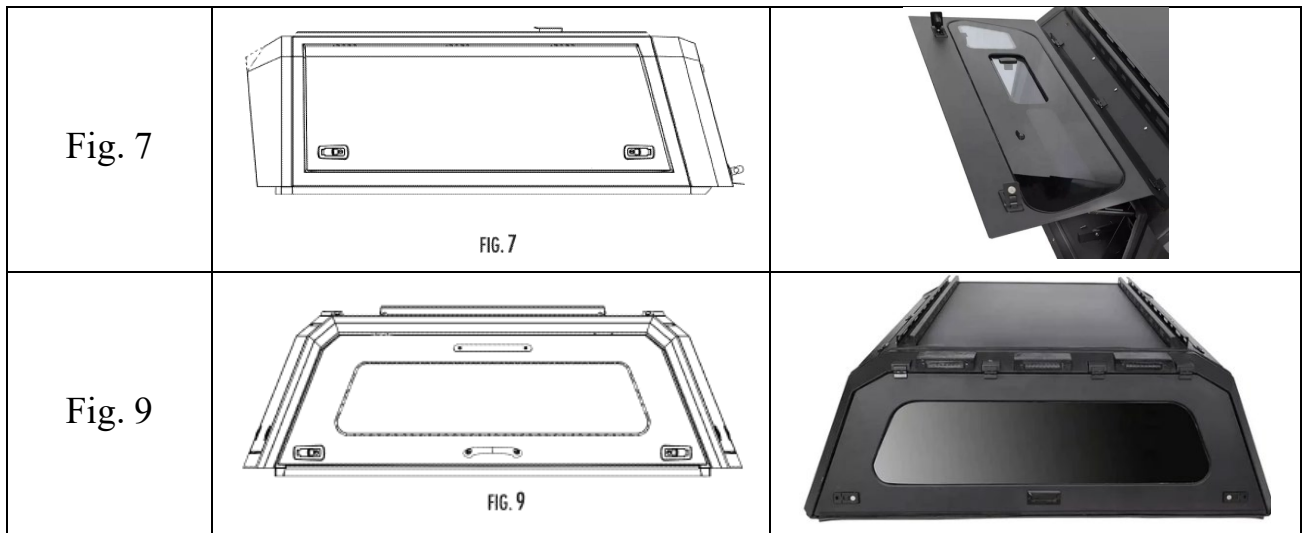
35. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tacoma Long Bed 2005–2015), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2005-2015> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	

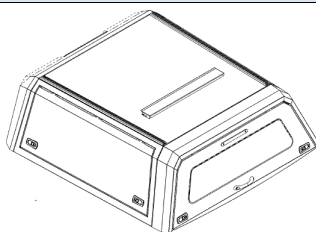

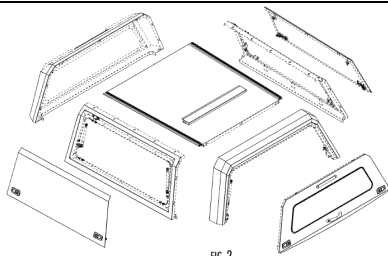

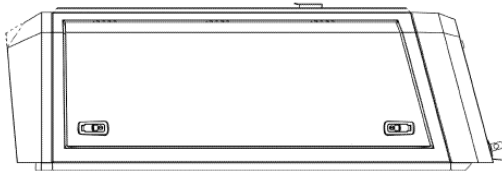



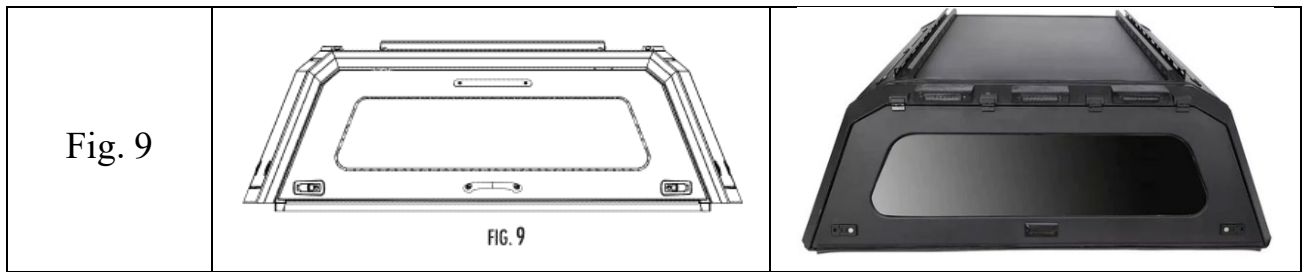
36. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Jeep Gladiator JT 2020–2023), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap> (last visited: Sept. 4, 2023).



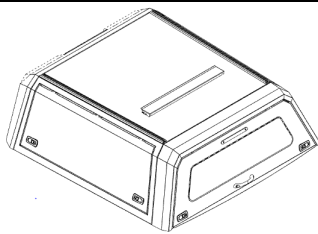

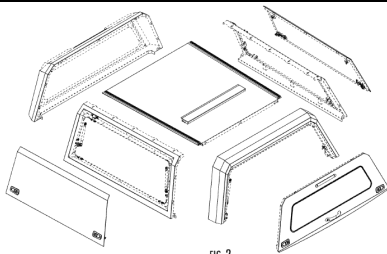

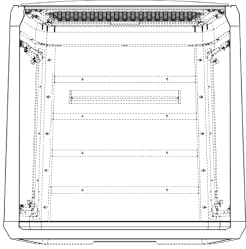

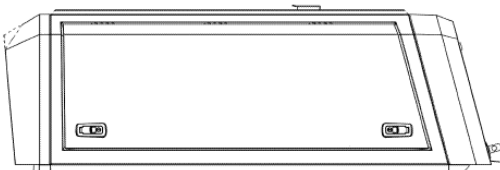



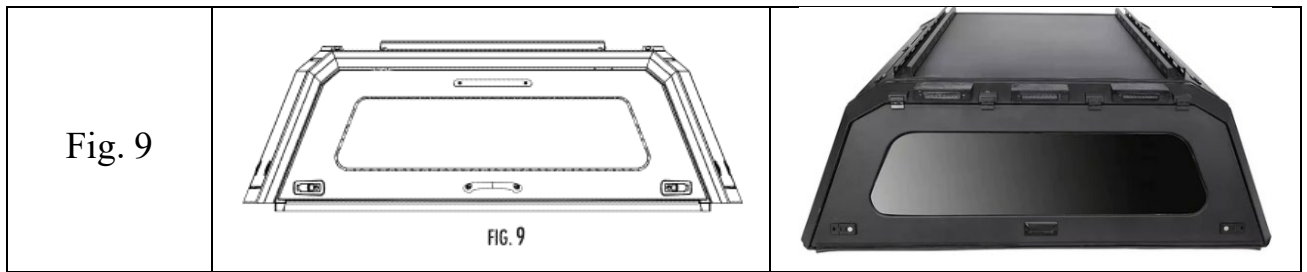
37. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tundra Gen 2-6.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-2019-2021-6-5-double-cab> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 <p style="text-align: center;">FIG. 1</p>	
Fig. 2	 <p style="text-align: center;">FIG. 2</p>	
Fig. 7	 <p style="text-align: center;">FIG. 7</p>	



38. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Tactical Cap (Tundra Gen 2-5.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-2-5-5-bed> (last visited: Sept. 4, 2023).

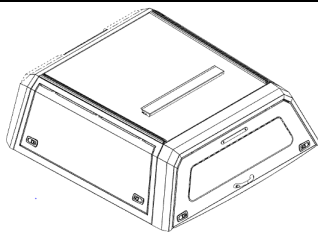

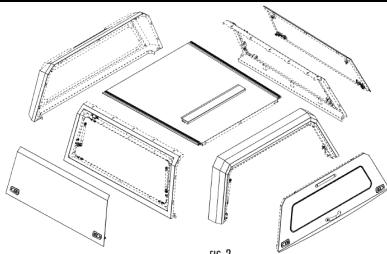



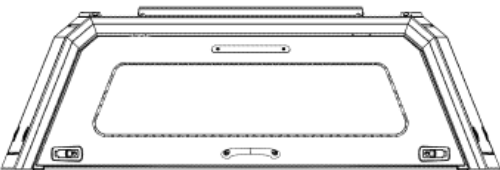

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 6	 FIG. 6	
Fig. 7	 FIG. 7	



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39. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Bynd's Steel Tactical Cap-2nd Gen Tundra-6.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/steel-tactical-cap-2nd-gen-tundra-6-5-bed> (last visited: Sept. 4, 2023).

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<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 7	 FIG. 7	
Fig. 9	 FIG. 9	

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40. The Accused Products are truck bed canopies with ornamental designs that infringe the '492 Patent. As shown in the charts in paragraphs 31–39 above, the Accused

1 Products implement the ornamental design for the SmartCap® truck bed canopies as
2 shown and described in the '492 Patent.

3 41. Bynd's infringing Accused Products contain each and every aspect of the
4 claimed design in '492 Patent.

5 42. In the eye of an ordinary observer, giving such attention as a purchaser
6 usually gives, the non-functional ornamental design for the truck bed canopy claimed
7 in the '492 Patent and the Accused Products are substantially the same, with
8 resemblance such as to deceive an ordinary observer, inducing him or her to purchase
9 an Accused Product believing it to be the design claimed in the '492 Patent.

10 43. On information and belief, Bynd, without authority, has directly infringed
11 and continues to directly infringe the '492 Patent, under 35 U.S.C. § 271(a), at least by
12 manufacturing, importing, distributing, selling, offering for sale, and/or using within
13 the United States at least the Accused Products.

14 44. Bynd became aware of the issued claim of the '492 Patent no later than
15 RSI's letter to Bynd dated February 22, 2023. Since at least that date, Bynd has
16 knowingly and willfully infringed the '492 Patent by manufacturing, importing, using,
17 selling, and offering to sell the Accused Products, entitling RSI to increased damages
18 under 35 U.S.C. § 284.

19 45. As a result of Bynd's infringement of the '492 Patent, RSI has suffered and
20 will continue to suffer damages. RSI is entitled to recover damages adequate to
21 compensate it for such infringement, but in no event less than a reasonable royalty, as
22 permitted under 35 U.S.C. § 284, as well as all remedies for design patent infringement
23 permitted under 35 U.S.C. § 289.

24 46. Bynd's infringement of the '492 Patent is causing irreparable harm for
25 which RSI has no adequate remedy at law unless Bynd is preliminarily and permanently
26 enjoined by this Court. RSI is entitled to a permanent injunction against further
27 infringement of the '492 Patent under 35 U.S.C. § 284.

1 47. In light of the allegations above, including Bynd's willful infringement of
2 the '492 Patent, this case is exception under 35 U.S.C. § 285, entitling RSI to its costs
3 and attorneys' fees incurred in prosecuting this action.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, RSI requests that:

6 A. The Court find that Bynd has directly infringed '492 Patent and hold Bynd
7 liable for such infringement;

8 B. The Court find that Bynd's infringement of the '492 Patent has been and
9 continues to be willful;

10 C. The Court issue a preliminary and permanent injunction against Bynd and
11 its affiliates, subsidiaries, assignees, employees, agents or anyone acting in privity or
12 concert from infringing the '492 Patent, including enjoining the making, offering to sell,
13 selling, using, or importing into the United States products claimed in the '492 Patent;
14 using or incorporating the design claimed in the '492 Patent, until its expiration;

15 D. The Court award damages pursuant to 35 U.S.C. § 284 adequate to
16 compensate RSI for Bynd's past infringement of the '492 Patent, including both pre-
17 and post-judgment interest and costs as fixed by the Court;

18 E. The Court award RSI the total profit made by Bynd from its infringement
19 of the '492 Patent under 35 U.S.C. § 289;

20 F. The Court award RSI increased damages under 35 U.S.C. § 284 for Bynd's
21 willful and deliberate infringement of the '492 Patent;

22 G. The Court declare that this is an exceptional case entitling RSI to its
23 reasonable attorneys' fees and costs under 35 U.S.C. § 285; and

24 H. The Court award such other relief as the Court may deem just and proper.

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JURY TRIAL DEMANDED

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, RSI hereby requests a trial by jury on all issues raised by this Complaint.

Dated: September 6, 2023

Respectfully submitted,

By: /s/ Caitlin Blanche

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*RSI Rock Solid Industries International (Pty)
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Exhibit A



US00D961492S

(12) **United States Design Patent** (10) **Patent No.:** **US D961,492 S**
Voss (45) **Date of Patent:** **** Aug. 23, 2022**

(54) **CANOPY FOR A VEHICLE, TRUCK, LIGHT DELIVERY VEHICLE OR SIMILAR VEHICLE**

(71) Applicant: **Rock Solid Industries International (Pty) Ltd**, Pietermaritzburgh (ZA)

(72) Inventor: **Michael Voss**, Pinetown (ZA)

(73) Assignee: **ROCK SOLID INDUSTRIES INTERNATIONAL (PTY) LTD**, Pietermaritzburgh (ZA)

(**) Term: **15 Years**

(21) Appl. No.: **29/707,700**

(22) Filed: **Sep. 30, 2019**

(51) **LOC (13) Cl.** **12-16**

(52) **U.S. Cl.** **D12/404**
 USPC **D12/404**

(58) **Field of Classification Search**
 USPC D12/82, 84, 86, 93, 96, 98, 99, 100, 101, D12/114, 181, 190, 196, 222, 223, 400, (Continued)

(56) **References Cited**

U.S. PATENT DOCUMENTS

2,032,630 A 3/1936 Northrup
 D206,530 S 12/1966 Zell
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OTHER PUBLICATIONS

EVO Sport _ RSI SmartCap, www.rsismartcanopy.com [online]. Published on or before Oct. 4, 2020, [retrieved on Oct. 4, 2020]. Retrieved from the Internet: <URL:https://www.rsismartcanopy.com/evo-leisure> (Year: 2020).*

(Continued)

Primary Examiner — Cary M Robinson
 Assistant Examiner — Adam C Mager

(74) *Attorney, Agent, or Firm* — Nolan R. Hubbard; K&L Gates LLP

(57) **CLAIM**

I claim the ornamental design for a canopy for a vehicle, truck, light delivery vehicle or similar vehicle, as shown and described.

DESCRIPTION

FIG. 1 is a perspective rear view of an embodiment of a canopy for a vehicle, truck, light delivery vehicle or similar vehicle, showing my new design;

FIG. 2 is an exploded view thereof, shown from the rear;

FIG. 3 a perspective front view thereof;

FIG. 4 is another exploded view thereof, shown from the front;

FIG. 5 is a top view thereof;

FIG. 6 is a bottom view thereof;

FIG. 7 is a side view thereof, the opposite side being a mirror image thereof;

FIG. 8 is a front view thereof;

FIG. 9 is a rear view thereof;

FIG. 10 is a perspective rear view of a second embodiment of a canopy for a vehicle, truck, light delivery vehicle or similar vehicle, showing my new design;

FIG. 11 is an exploded view thereof, shown from the rear;

FIG. 12 a perspective front view thereof;

FIG. 13 is another exploded view thereof, shown from the front;

FIG. 14 is a top view thereof;

FIG. 15 is a bottom view thereof;

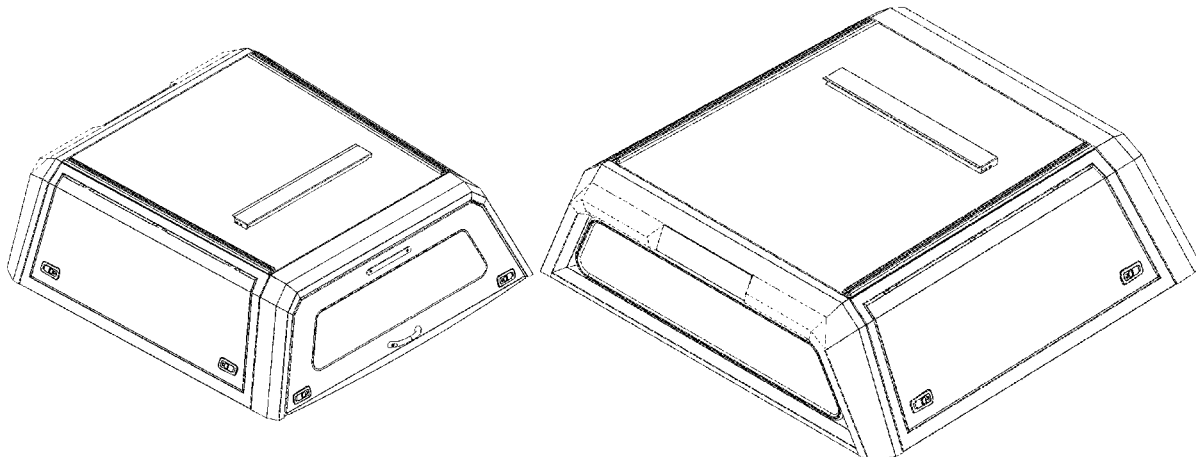
FIG. 16 is a side view thereof, the opposite side being a mirror image thereof;

FIG. 17 is a rear view thereof; and,

FIG. 18 is a front view thereof.

The dash-dot-dash broken lines define bounds of the design and form no part of the claimed design. All other broken lines illustrate portions of the canopy for a vehicle, truck, light delivery vehicle or similar vehicle that form no part of the claimed design.

1 Claim, 18 Drawing Sheets



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Page 2

(58) Field of Classification Search

USPC D12/401, 403, 404, 406, 407, 408, 409,
D12/410, 412, 413, 414, 414.1
CPC B62D 35/001; B62D 35/002; B62D 25/06;
B62D 29/045; B62D 65/14; B60P 7/02;
B60P 7/14; B60J 7/20; B60R 9/00; B60R
9/02; B60R 9/04; B60R 9/06; B60R 9/08;
B60R 9/10; B60R 9/045; B60R 9/048;
B60R 9/055; B60R 9/058

See application file for complete search history.

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Design U.S. Appl. No. 29/681,255, filed Feb. 22, 2019; In re: Voss; entitled *Canopy for a Vehicle, Truck, or the Like and Components and Accessories Related Thereto*.
SmartCap EVO, www.rsismartcap.com [online]. Published on or before Sep. 23, 2020, [retrieved on Sep. 23, 2020]. Retrieved from the Internet: UR: <https://www.rsismartcap.com/products/smartcap-evo> (Year: 2020) (15 pages).

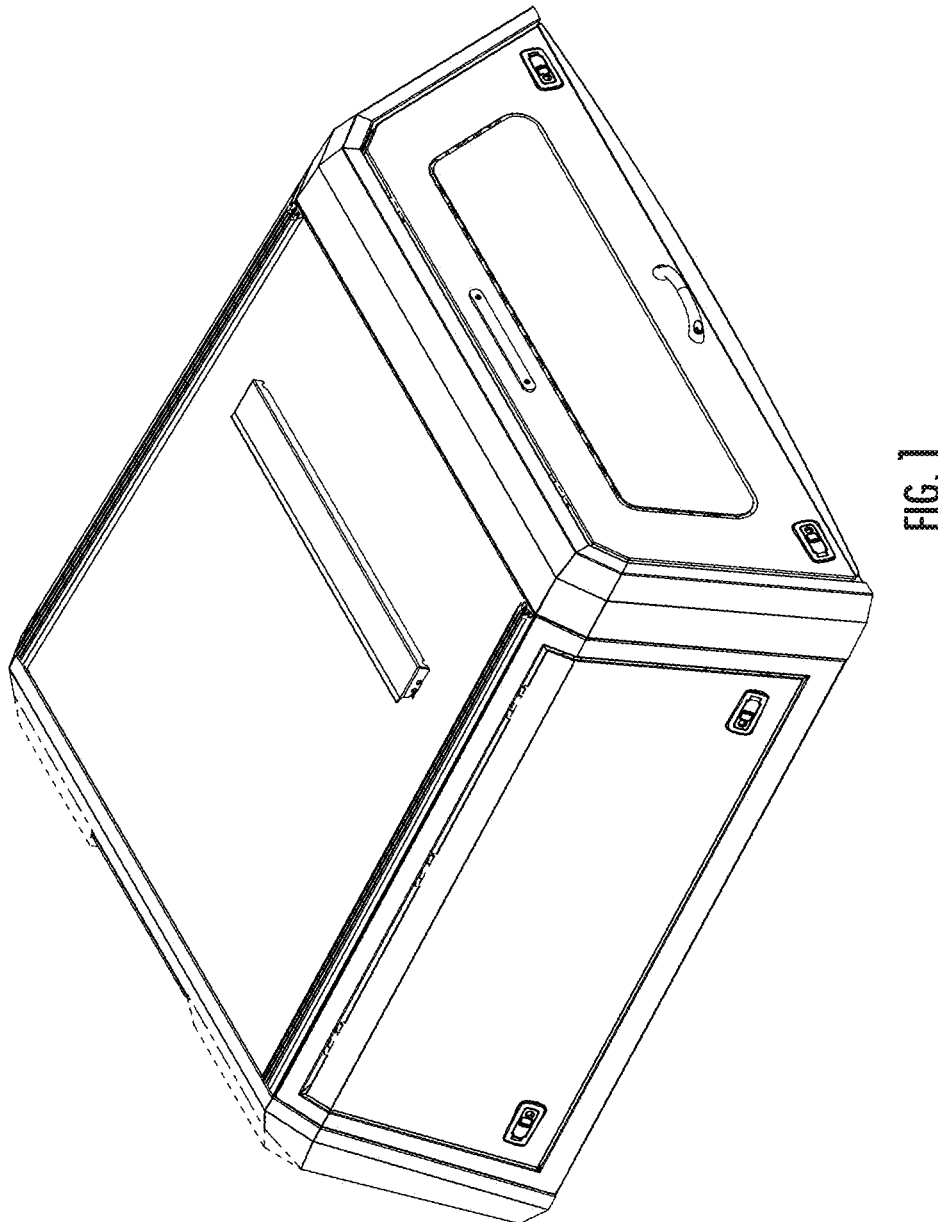
* cited by examiner

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Sheet 1 of 18

US D961,492 S



U.S. Patent

Aug. 23, 2022

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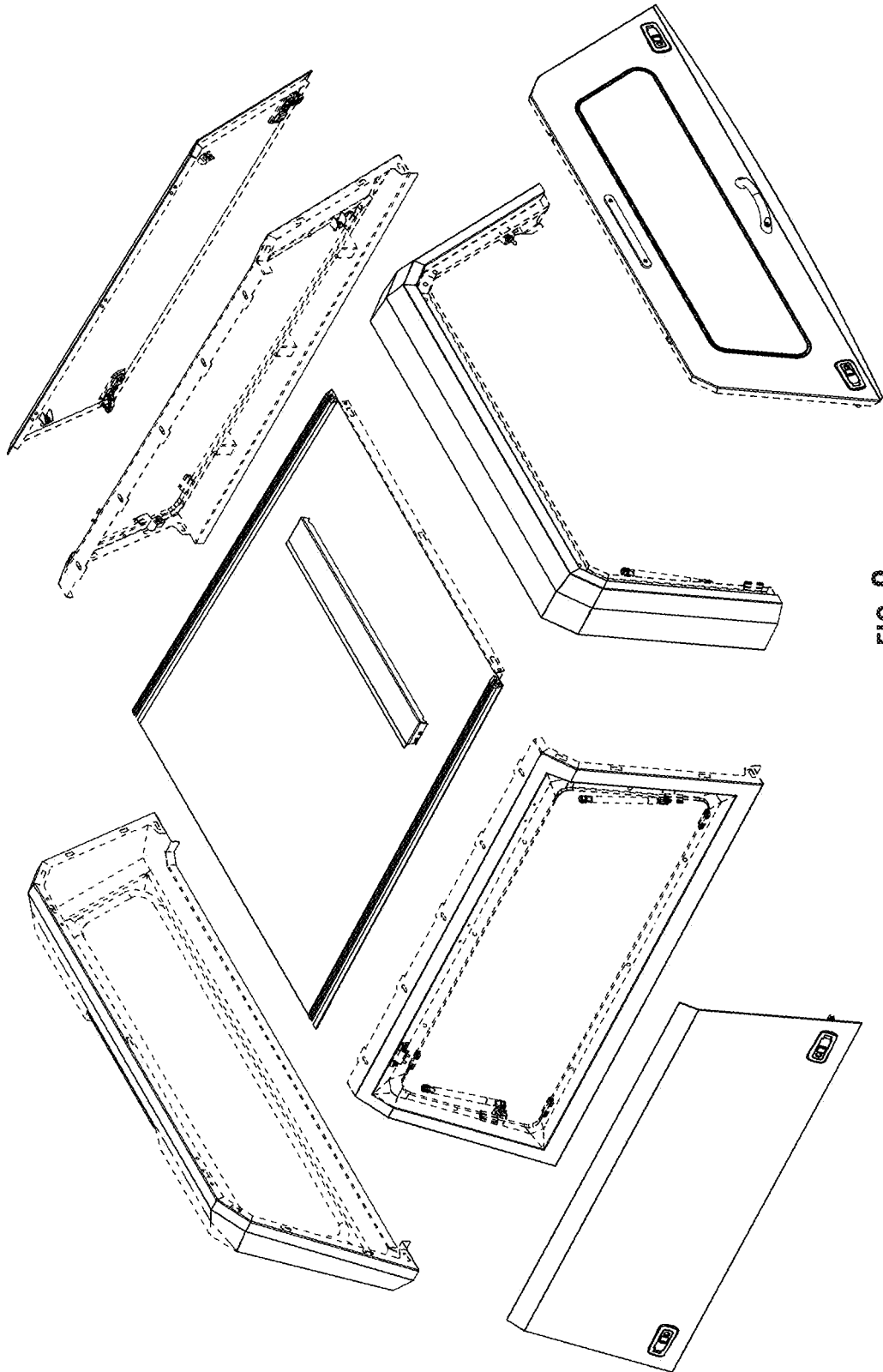


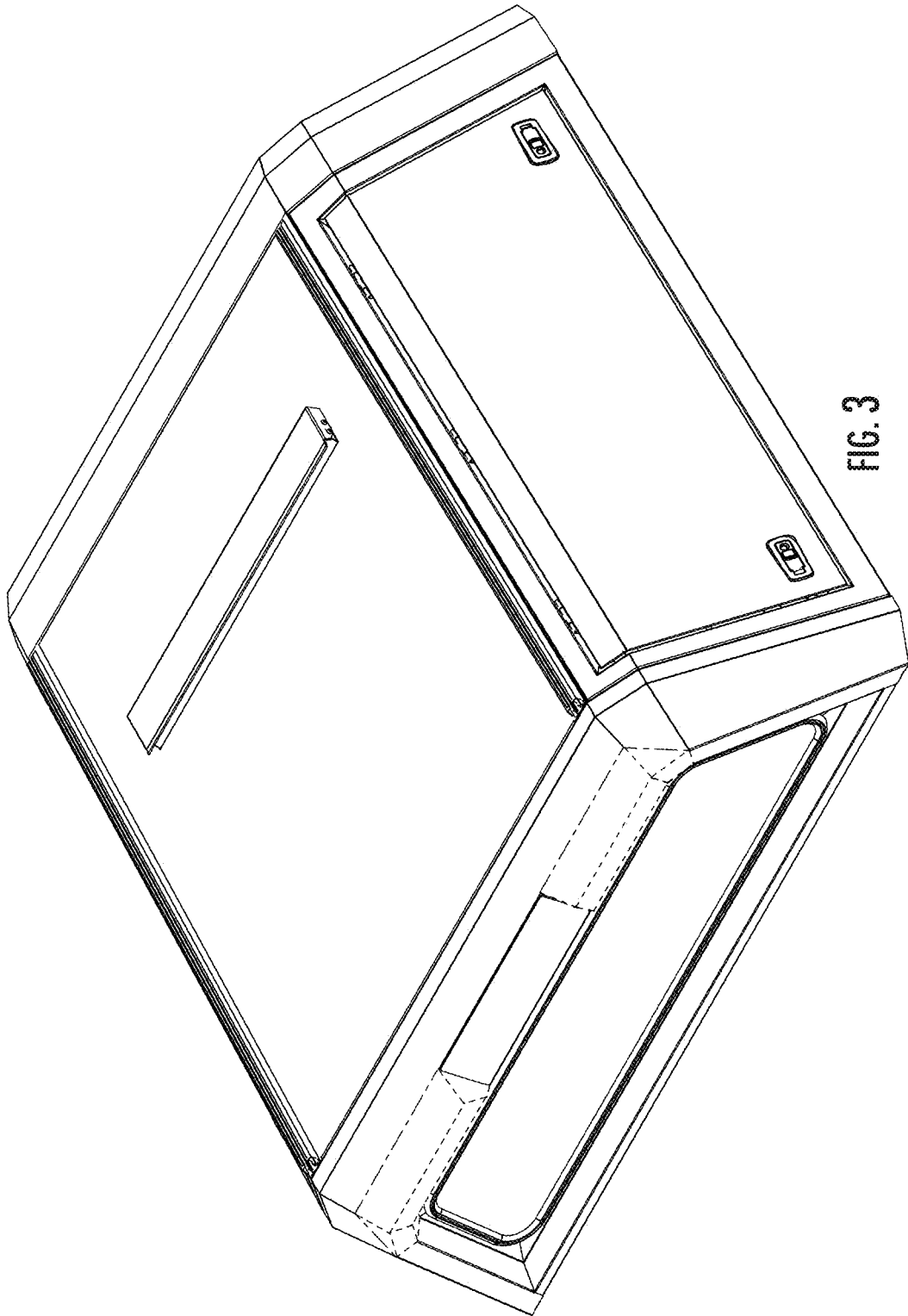
FIG. 2

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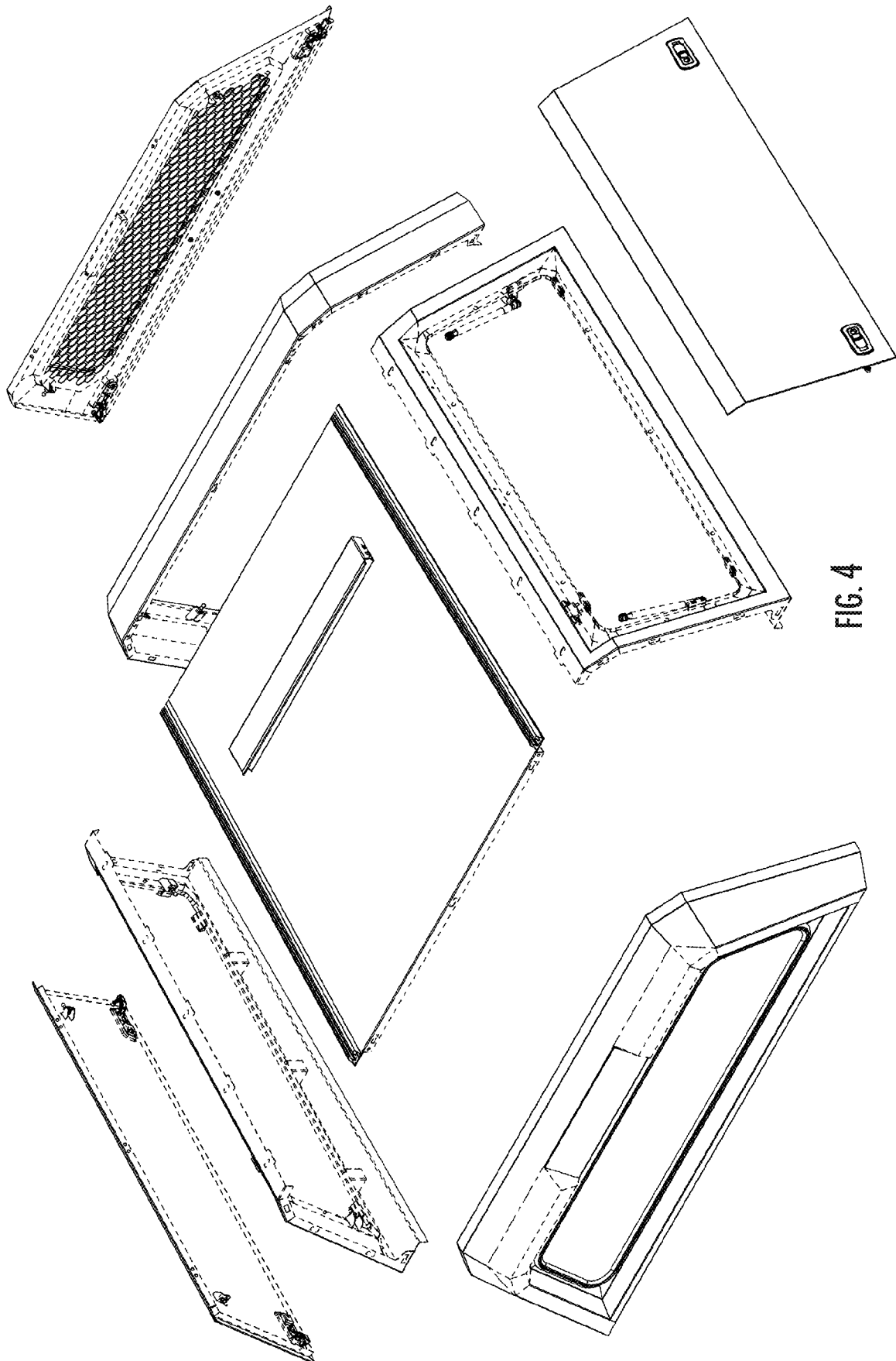


FIG. 4

U.S. Patent

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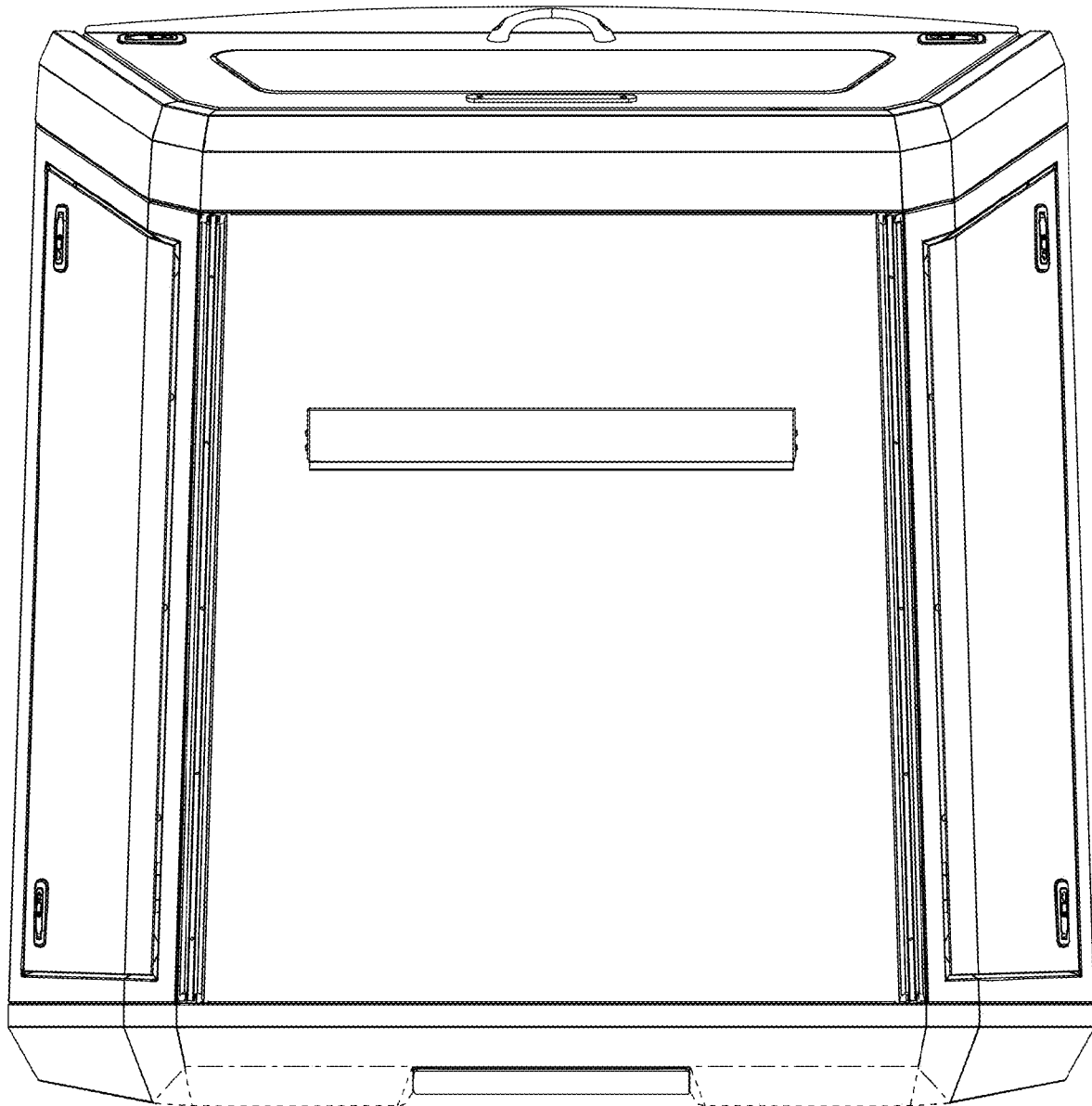


FIG. 5

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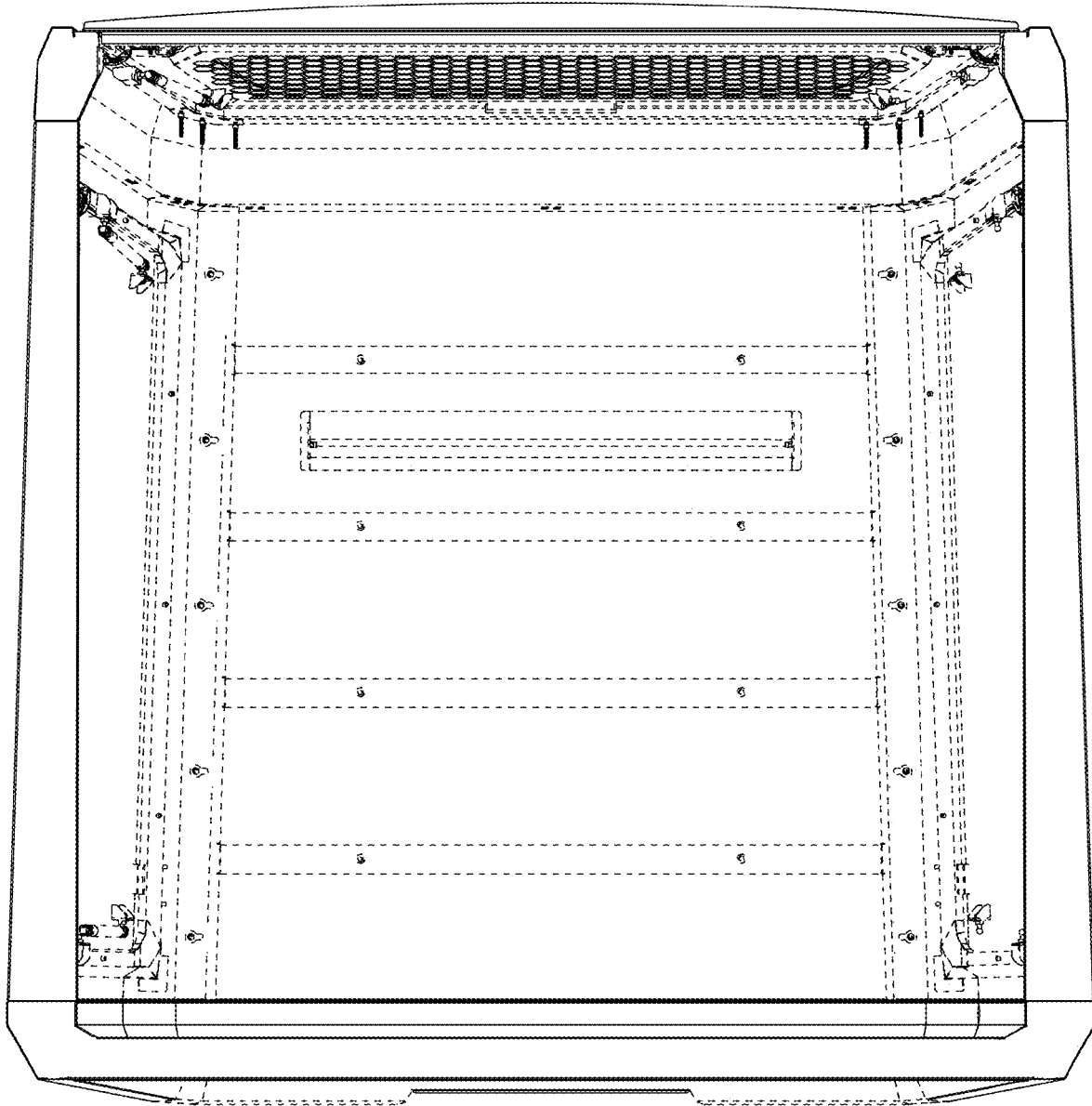


FIG. 6

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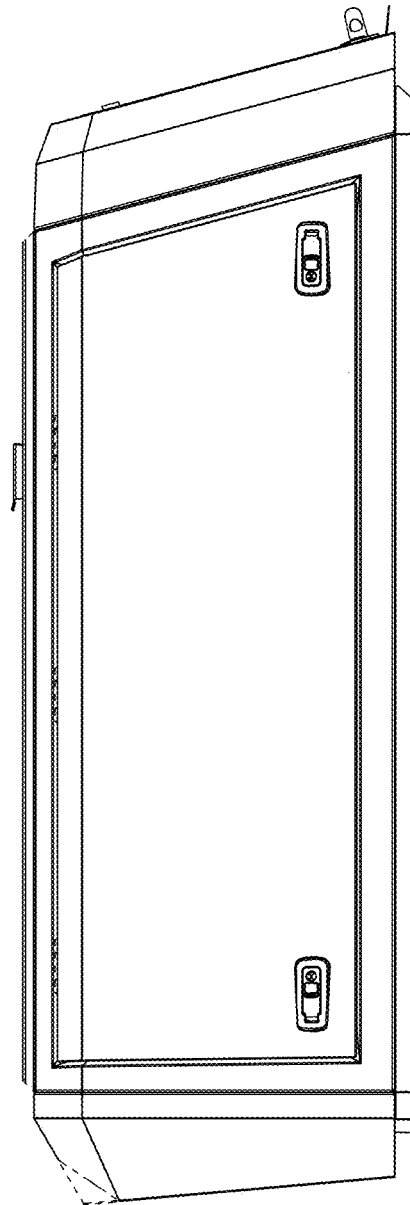


FIG. 7

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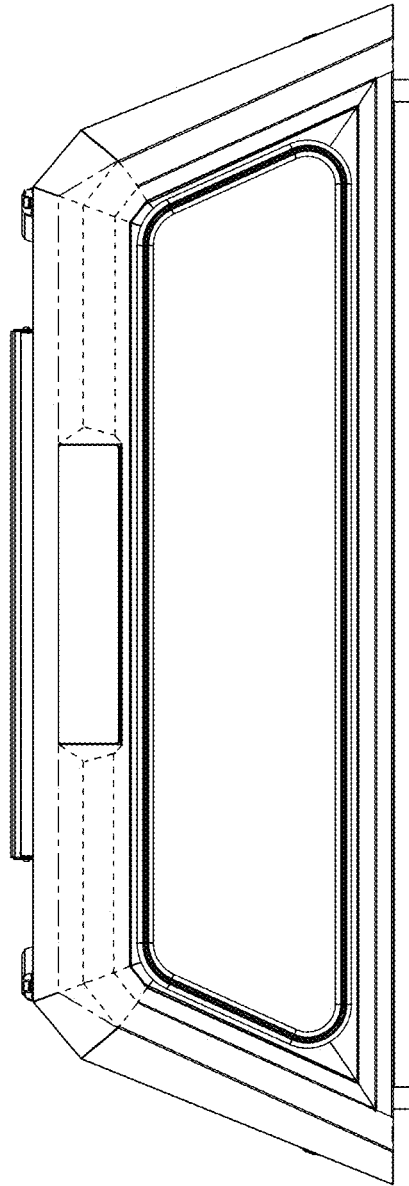


FIG. 8

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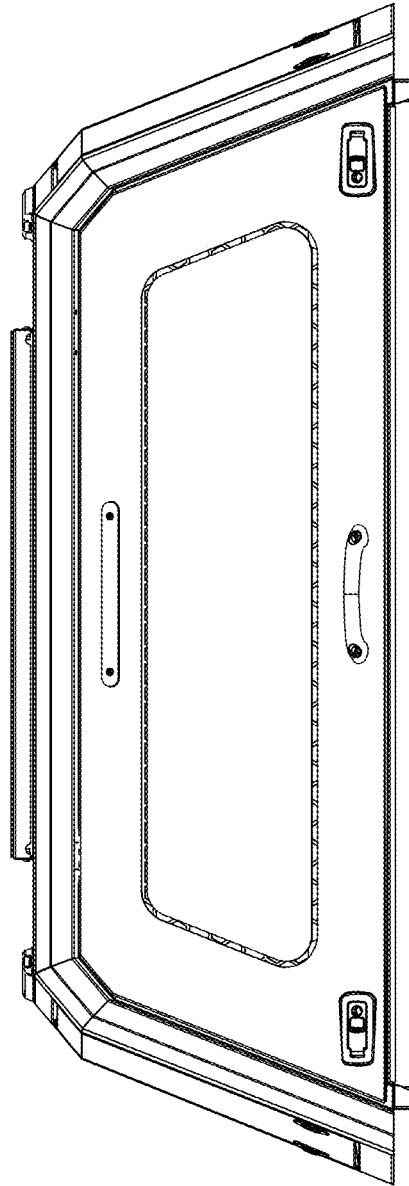


FIG. 9

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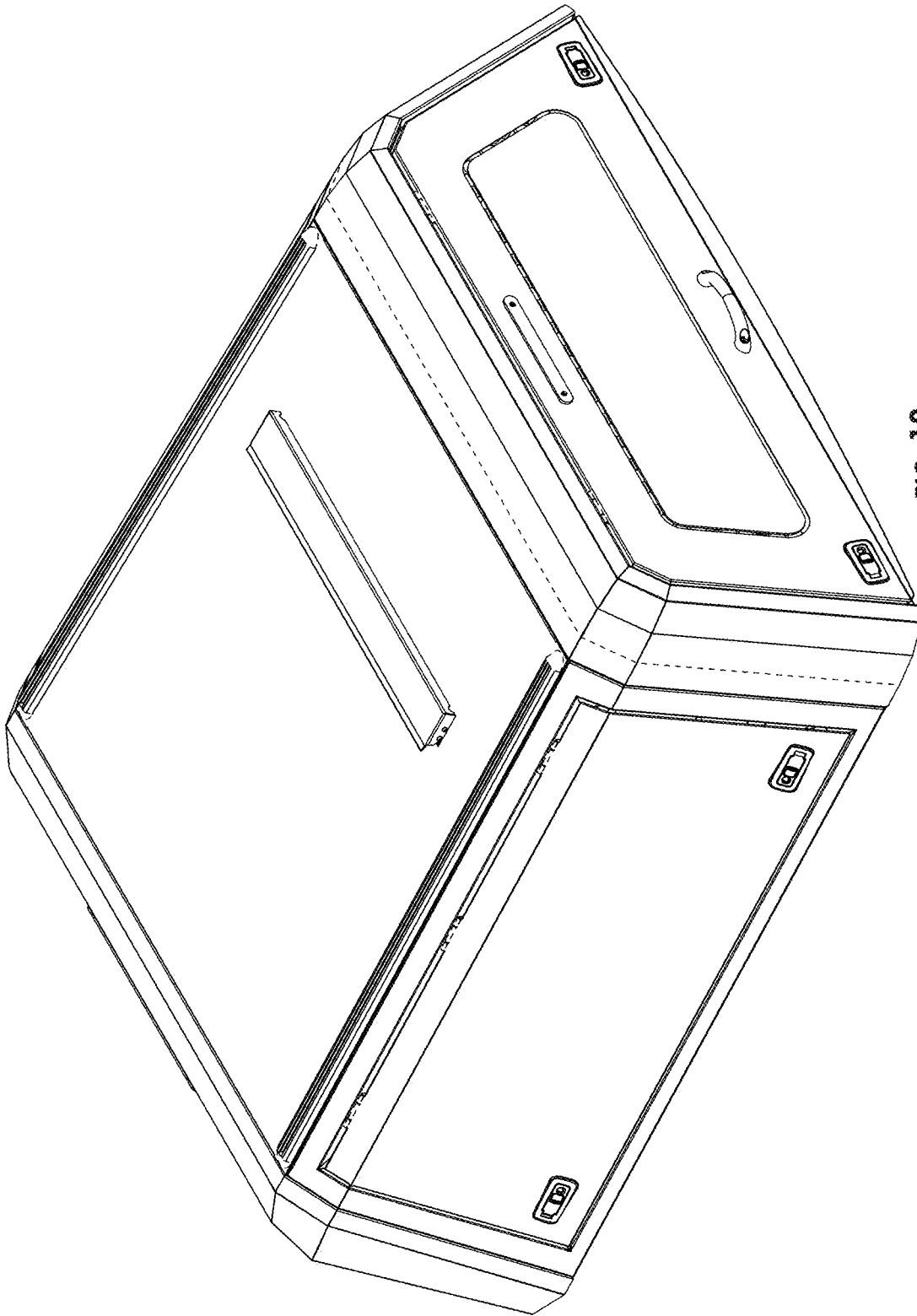


FIG. 10

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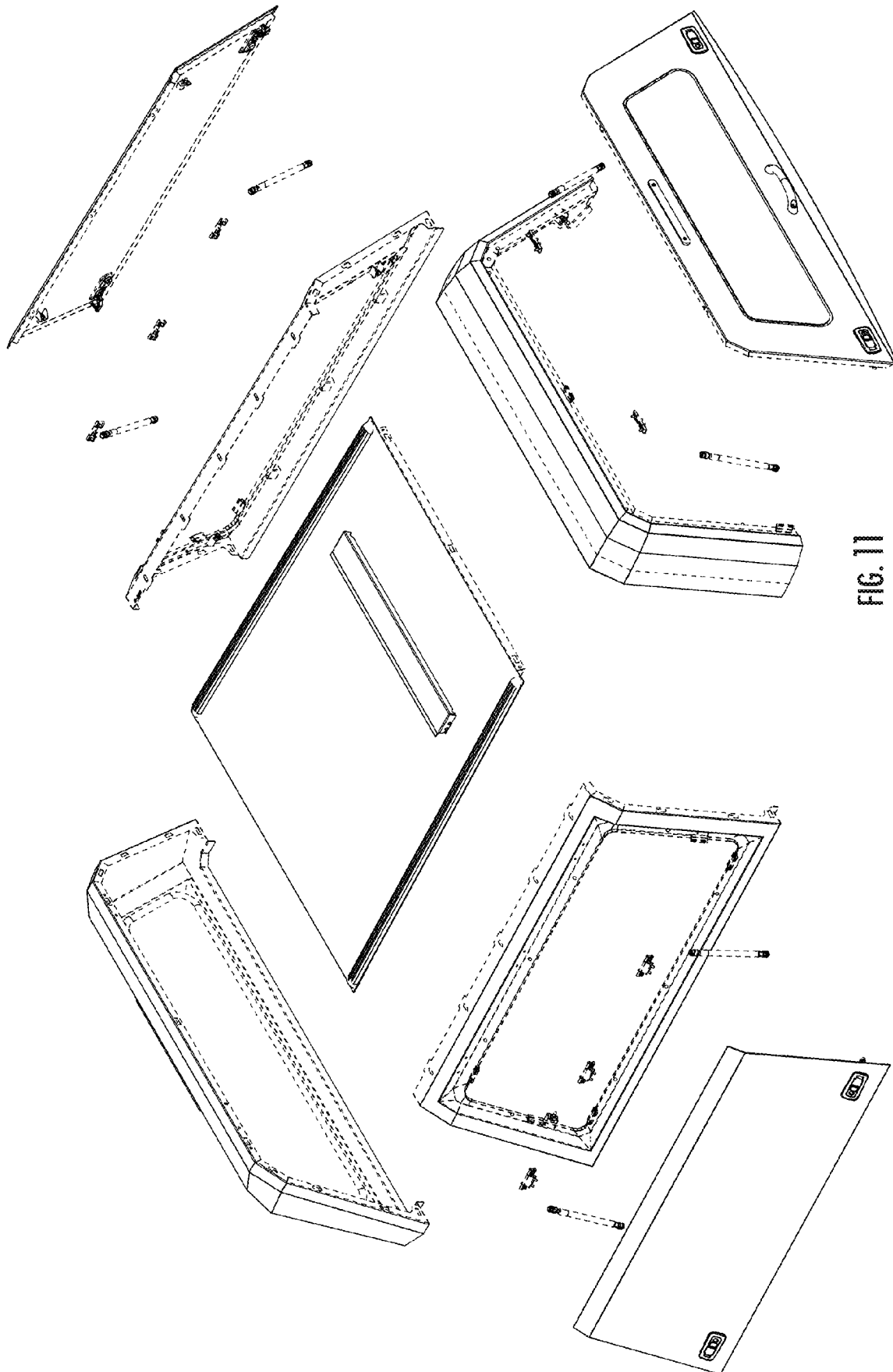
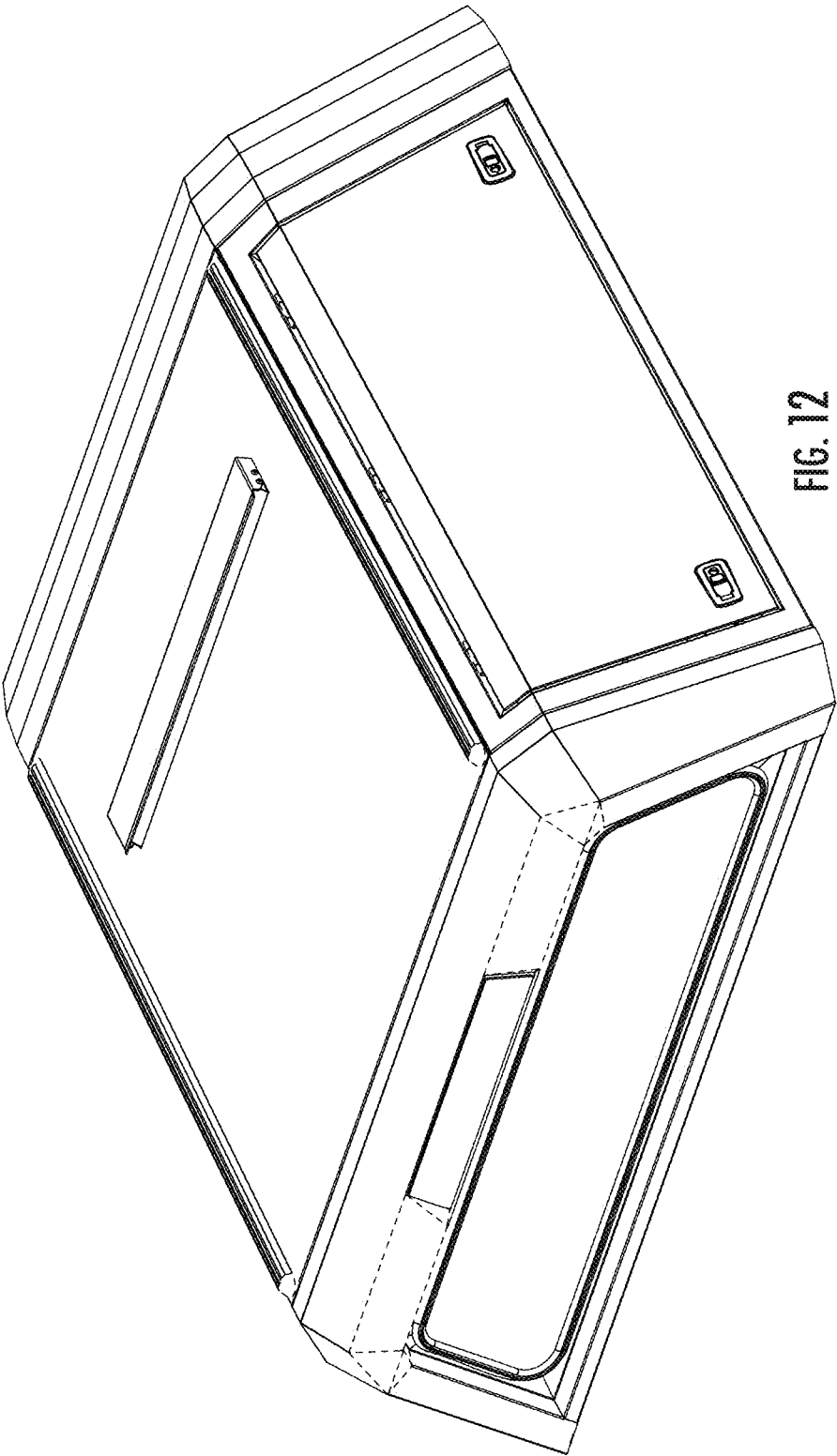


FIG. 11



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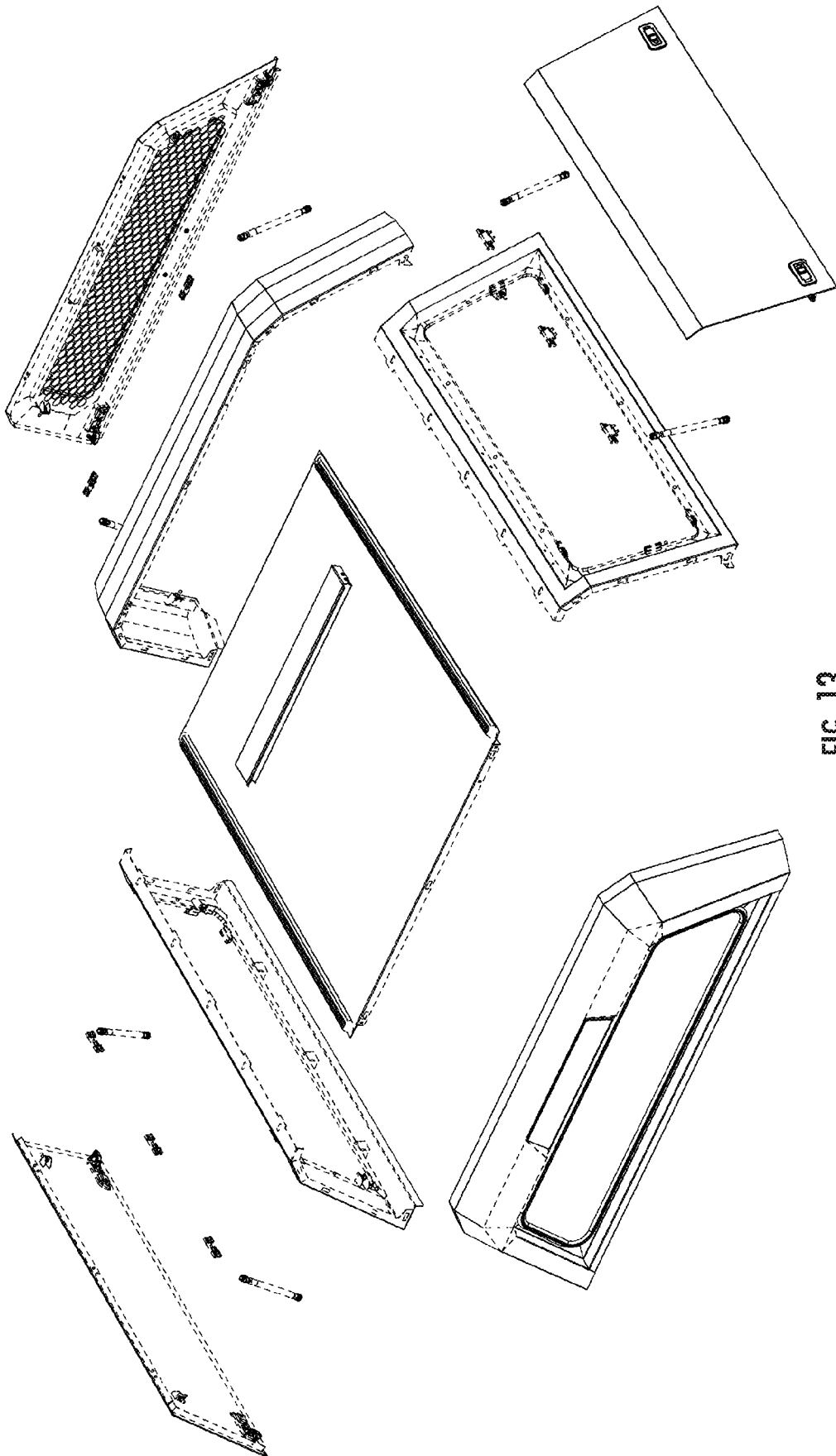


FIG. 13

U.S. Patent

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US D961,492 S

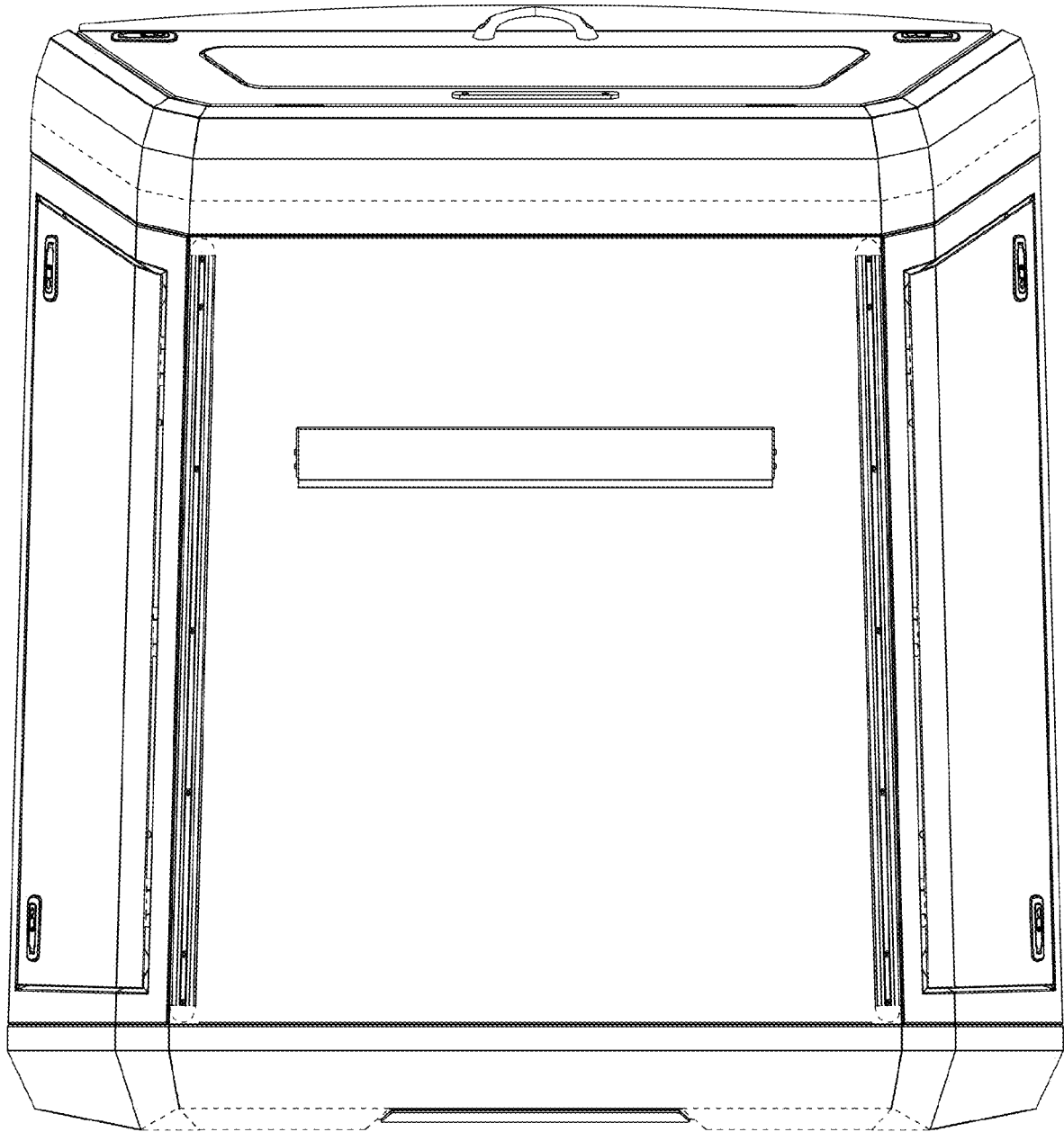


FIG. 14

U.S. Patent

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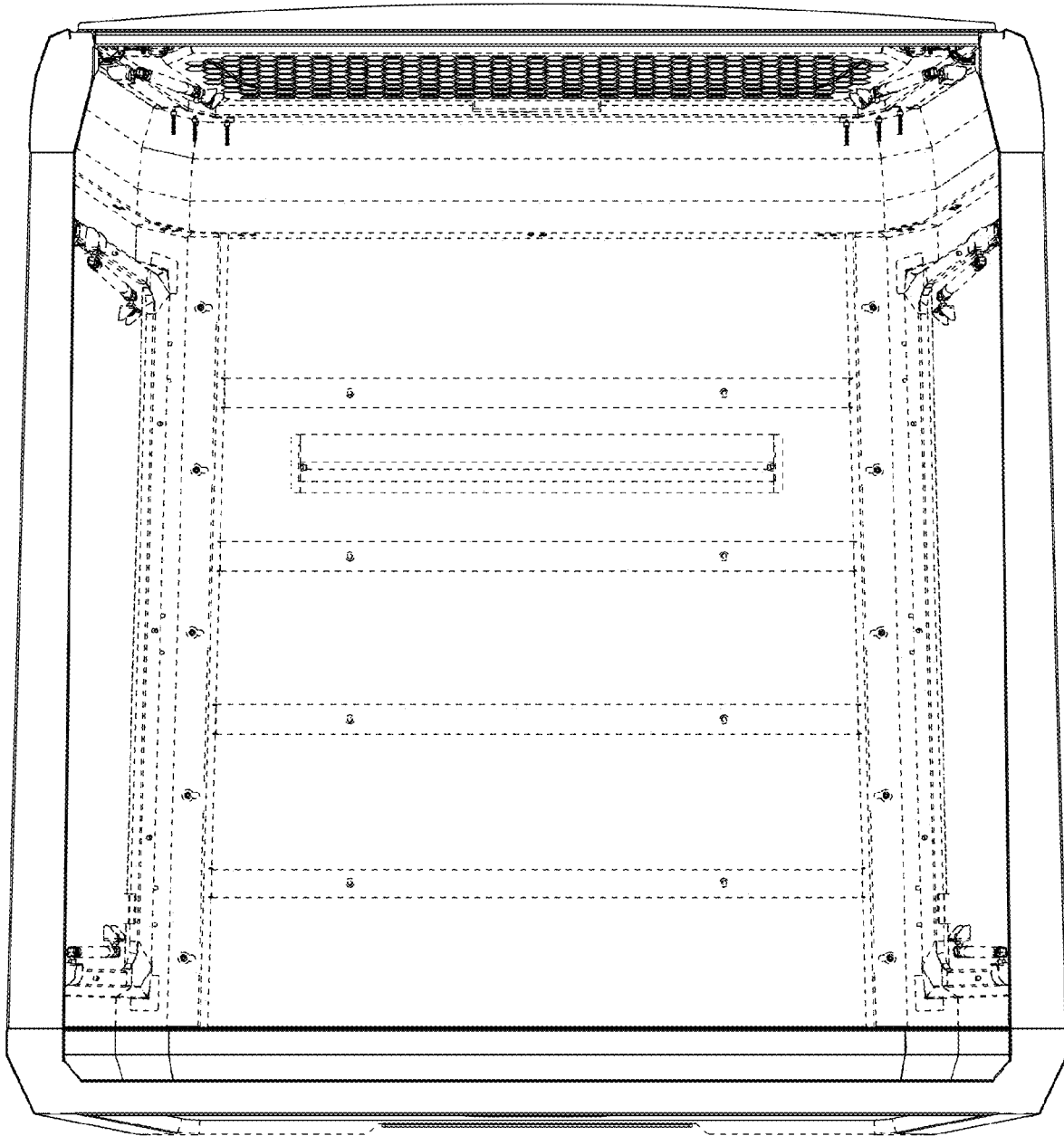


FIG. 15

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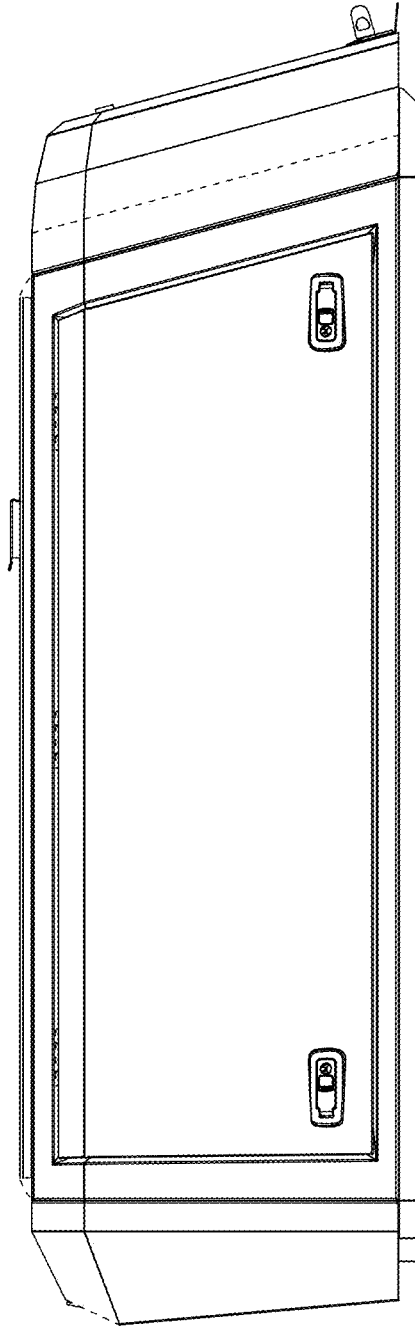


FIG. 16

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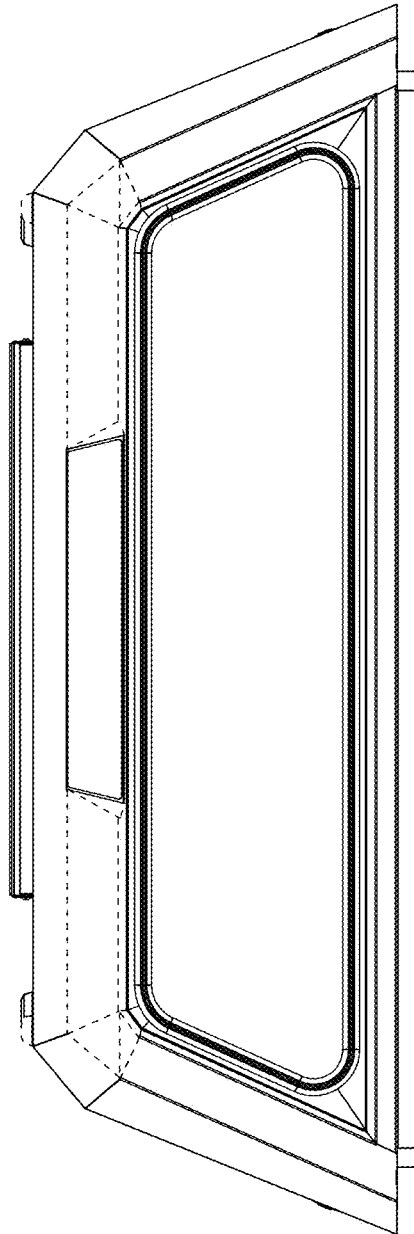


FIG. 17

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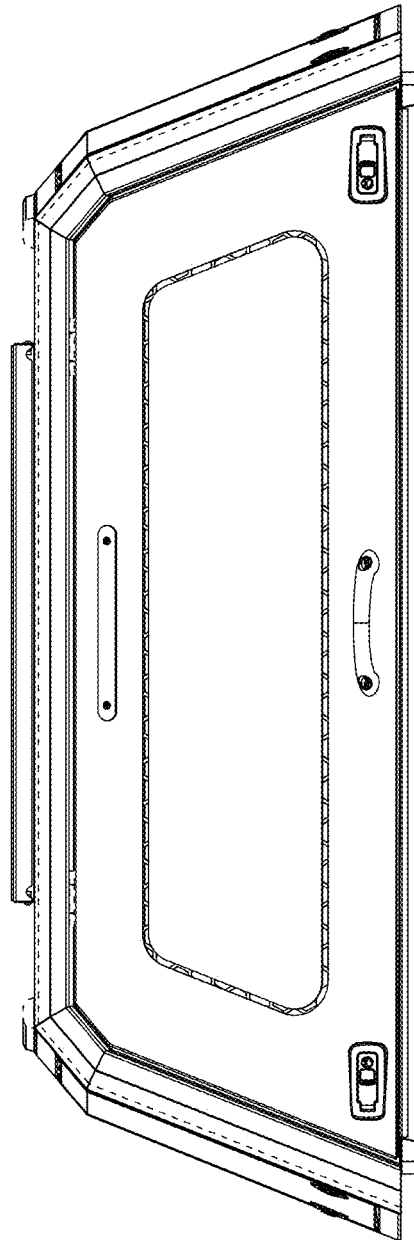


FIG. 18

Exhibit B

K&L GATES

February 22, 2023

By E-Mail

BYND 4X4, Inc.
Sacramento, CA 95829
CustomerService@BYND4x4.com

Cara M. Pinto
cara.pinto@klgates.com

D 412.355.8276
F 412.355.6501

ALL RIGHTS RESERVED.

Re: Infringement of RSI® Designs

To Whom It May Concern:

We serve as intellectual property counsel in this matter for RSI Rock Solid Industries International (Pty) Ltd. ("RSI"), a global designer, marketer and distributor of modular systems and devices for truck beds. We are writing about your website <https://www.bynd4x4.com/> and the following subsections:

- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-short-bed-2016-2022>; See **Exhibit A**;
- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-3>;
- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2016-2022>;
- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-ford-f150-shortbed-2020>;
- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2005-2015>;
- <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap>; and
- <https://www.bynd4x4.com/collections/accessories/products/kitchen>; See **Exhibit A**.

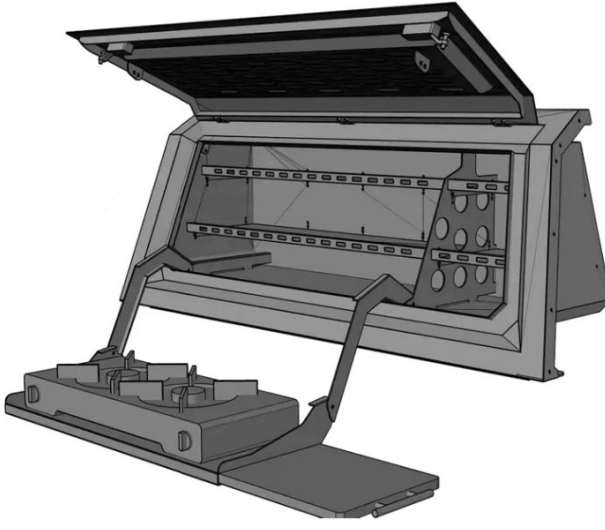
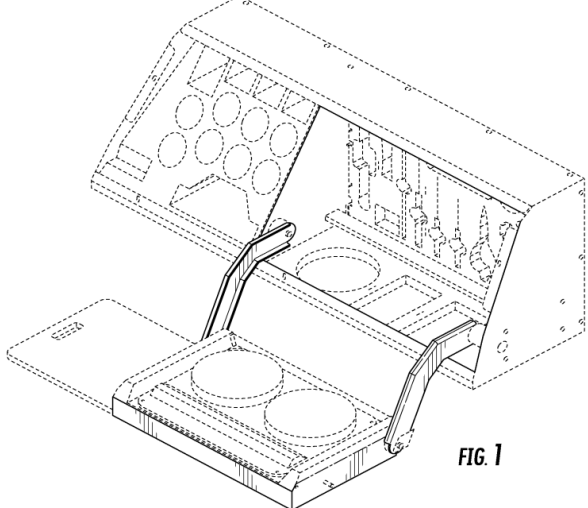
For the reasons set forth below, we demand that you shut down your website and immediately cease and desist all further use, sale, and offer for sale of all products that infringe upon RSI's patents as discussed in greater detail below.

I. Design Patent Infringement

It has come to our attention that BYND 4x4 is responsible for distributing and promoting a knock-off modular truck bed canopy or cap and other accessories such as a knock-off camp kitchen. For example, we understand that you began importing the infringing products around August of 2022. Thus, your provision of the above-listed knock-off modular truck bed caps and knock-off modular kitchens has directly led RSI to lose revenue and profits.

Your knock-off modular truck bed caps and knock-off camp kitchens infringe at least RSI's U.S. Design Patent No. D961,492 (the '492 Patent) and U.S. Design Application No. 29/761,468 (the '468 Application). A comparison of your knock-off modular truck bed cap to RSI's '492 Patent is shown below. A comparison of your knock-off camp kitchen to RSI's '468 application is also shown below.

Your Infringing Product	RSI Modular Truck Bed System
	
<p>As marketed at:</p> <ul style="list-style-type: none"> • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-short-bed-2016-2022; • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-3; • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2016-2022; • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-ford-f150-shortbed-2020; • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2005-2015; and • https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap. 	<p>The '492 Patent</p> <ul style="list-style-type: none"> • Filed on September 30, 2019 • Issued on August 23, 2022

Your Infringing Product	RSI Camp Kitchen
	
<p>As marketed at:</p> <ul style="list-style-type: none"> • https://www.bynd4x4.com/collections/accessories/products/kitchen 	<p>The '468 Application</p> <ul style="list-style-type: none"> • Filed on December 9, 2020

In addition to the '492 Patent and the '468 Application, BYND 4x4 should be aware that RSI owns additional patents and applications covering modular truck bed caps, including U.S. Design Patent Nos. D964,253, D961,491, D969,058, and D924,120, as well as U.S. Design Patent Application Nos. 29/773,561 and 29/797,771 among others.

This letter serves as notice, and demand, that BYND 4x4 and all associated entities immediately cease and desist from further infringement of our client RSI' intellectual property, including its applications and patents listed above.

II. Demand

We demand that you immediately take the following actions:

1. Immediately cease and desist from further infringement of our client RSI's intellectual property, including its applications and patents listed above, through the making, selling, offering for sale, importing, or otherwise using the knock-off truck bed caps and knock-off camp kitchens.

2. Immediately disable and remove the websites listed above from public access, including by working with search engines to de-index the website, and disable and remove any other similar websites incorporating your infringing products;
3. Provide the contact information for the manufacturer of the Tactical Cap and the Tactical Camp Kitchen;
4. Provide a full accounting of your companies' infringement of RSI designs, including (i) the number of knock-off truck bed caps and knock-off camp kitchens acquired by your company; (ii) the number of knock-off truck bed caps and knock-off camp kitchens you have sold to date; (iii) the identity of all of your customers of knock-off truck bed caps and knock-off camp kitchens; and (iv) a statement of all of your revenues, profits and costs associated with your knock-off truck bed caps and knock-off camp kitchens; and
5. Deliver any remaining knock-off truck bed caps and knock-off camp kitchens to a certified destruction service, and send to us a certificate from the destruction service that certifies that the knock-off truck bed caps and knock-off camp kitchens have been destroyed.

Please confirm in writing within **seven (7) days** of the date of this letter that you will comply with the demands set forth in this letter. RSI takes its intellectual property rights very seriously and reserves the right to pursue all available remedies.

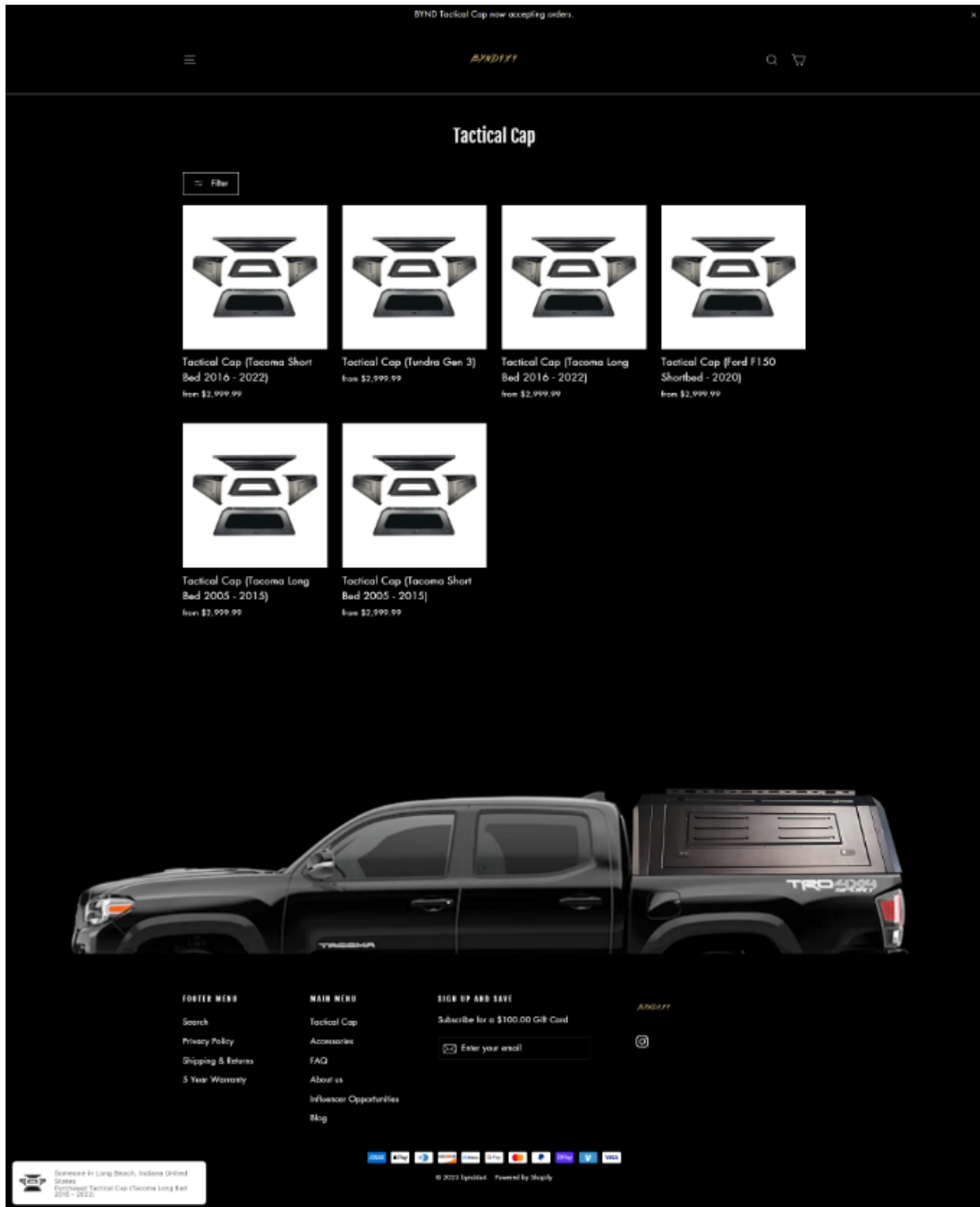
The purpose of this letter is to resolve this matter in an informal manner. However, RSI does not waive any of the rights or remedies to which it is entitled, and nothing in this letter, nor any act or omission by RSI shall be construed as a waiver of any right or remedy possessed by RSI, all of which are expressly reserved.

Sincerely,

/Cara M. Pinto/

Cara M. Pinto


Exhibit A



BYND Tactical Cap now accepting orders.

BYNDIXY

Menu Search Cart



Tactical Cap Camp Kitchen

\$299.99

Free worldwide shipping

In stock, ready to ship

Add to cart

4 interest-free installments or from \$27.08/mo with shopify View sample plans

CHOOSE HOW YOU PAY AT YOUR OWN PACE

DESCRIPTION

SHIPPING INFORMATION

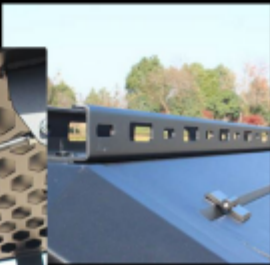

Share Tweet Pin it


"Adventure starts where plans end."

Whether you're a weekend warrior, off-road enthusiast, or avid overlander, the BYND 4x4 Tactical Cap is adventure ready.

Built Tough

Each door is outfitted with dual gas struts and adjustable pressure levers on all doors. Roof Rack Bars come standard with every Tactical Cap.





Details

Anti-theft lock for the ultimate security and malle panels behind each gullwing for endless attachments.

FOOTER MENU


- [Search](#)
- [Privacy Policy](#)
- [Shipping & Returns](#)
- [5 Year Warranty](#)


MAIN MENU

- [Tactical Cap](#)
- [Accessories](#)
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


















 Enter your email



AXNDIYY



Someone in Dixon, California United States
Purchased Tactical Cap (Tacoma Short Bed
2016 - 2022)



© 2023 bynd4x4 - Powered by Shopify

7

314741871.1

Exhibit C

K&L GATES

May 15, 2023

By E-Mail

Andrew D. Skale
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
adskale@mintz.com

Cara M. Pinto
cara.pinto@klgates.com

D 412.355.8276
F 412.355.6501

**ALL RIGHTS RESERVED.
FRE 408 Communication**

Re: Infringement of RSI® Designs

Dear Mr. Skale:

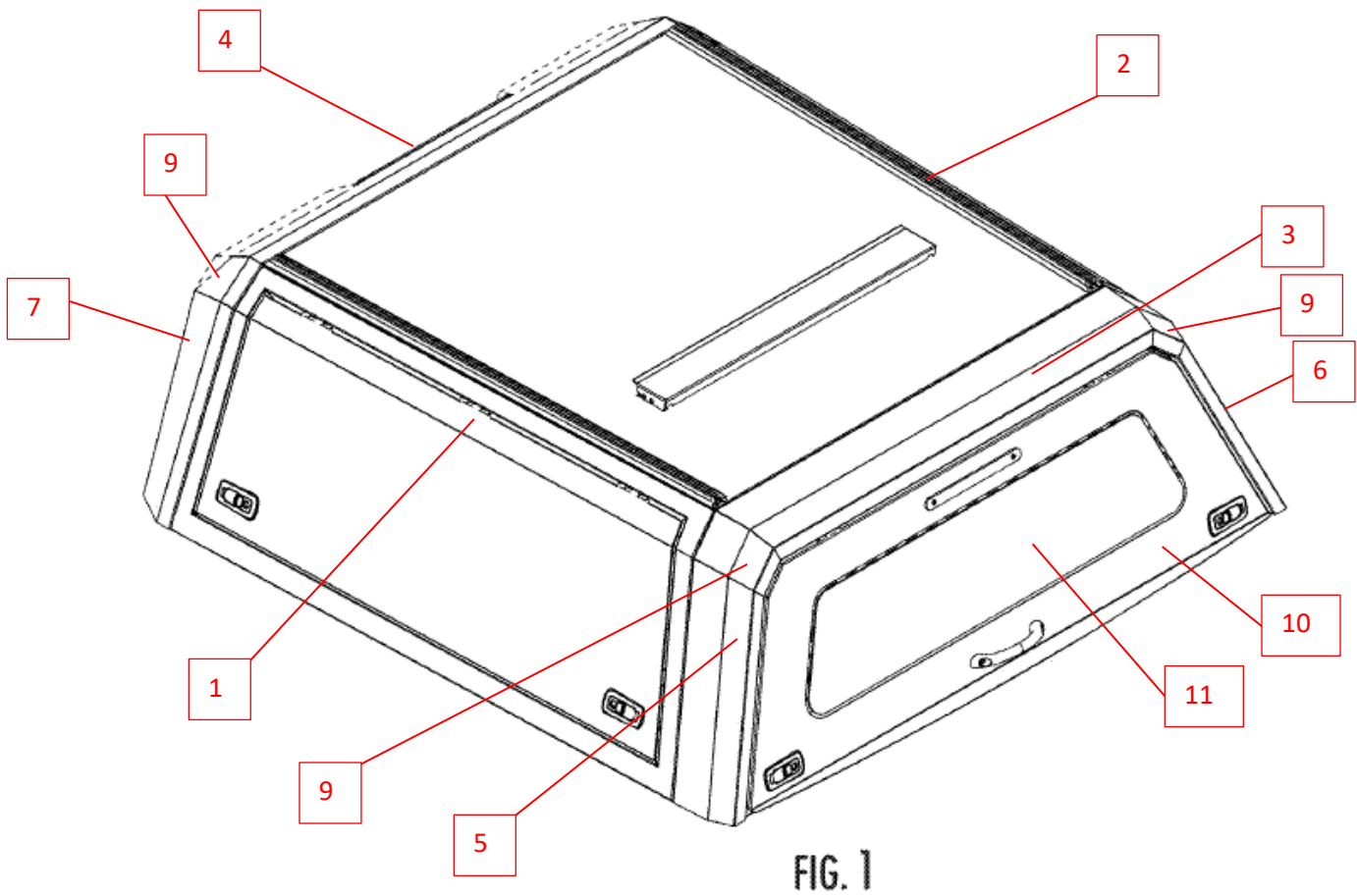
We are in receipt of your April 20, 2023 letter in which you allege that we have not demonstrated how your client, BYND 4X4 ("BYND") is infringing on the patent rights of our client, RSI Rock Solid Industries International (Pty) Ltd. ("RSI").

At the outset, we note your statement that "the only thing BYND's product has in common with RSI's is that both products are truck caps in the shape of a three-dimensional trapezoid" is entirely inaccurate. On a related note, you contend that "every ornamental element of BYND's cap is distinct from RSI's design," yet your letter cites absolutely no evidence supporting this contention.


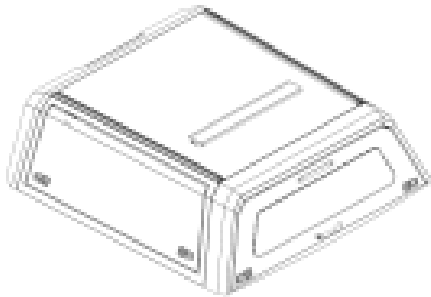
BYND's knock-off truck bed cap infringes at least RSI's U.S. Design Patent No. D961,492 (the '492 Patent), which comprises distinct purely ornamental and non-functional features that are unique to RSI's claimed canopy design only. Notably, the edges in each corner of RSI's canopy design each comprise chamfered edges at each top edge or corner as evidenced in the chart below.

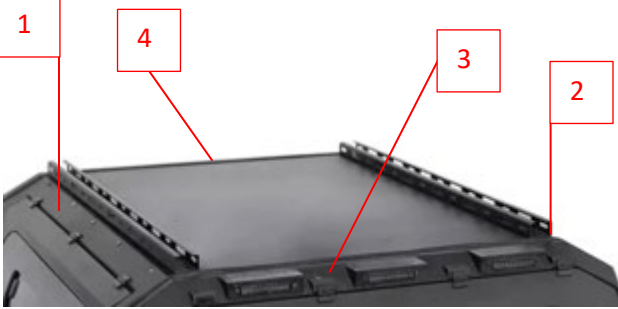
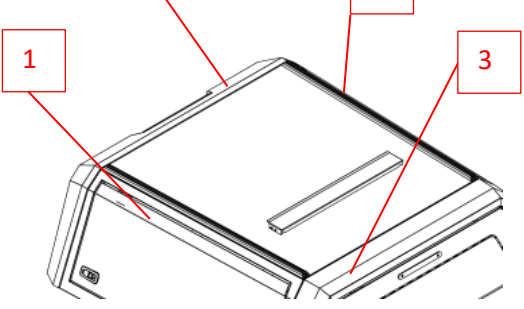

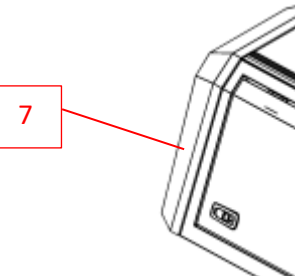
Specifically, RSI's '492 Patent includes the following ornamental and non-functional design elements:


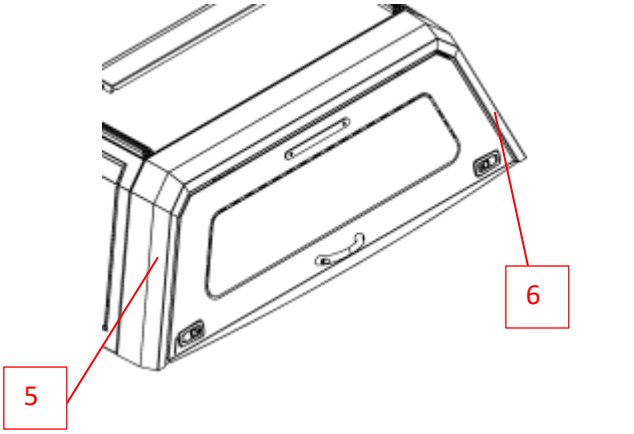

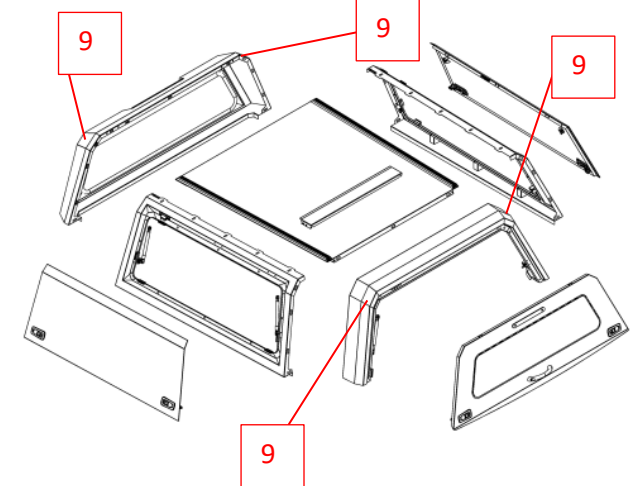
- (1) Left side, top corner
- (2) Right side, top corner
- (3) Rear side, top corner
- (4) Front side, top corner
- (5) Left rear vertically oriented corner
- (6) Right rear vertically oriented corner
- (7) Left front vertically oriented corner
- (8) Right front vertically oriented corner (not visible in Fig. 1)
- (9) Double chamfered top corners
- (10) Rear window set proportioned distinctly smaller than the rear door
- (11) Rear window having a trapezoidal shape with distinctly rounded corners


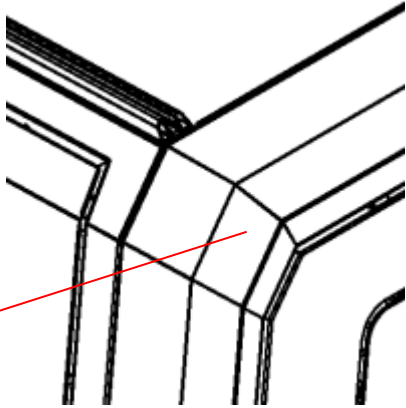

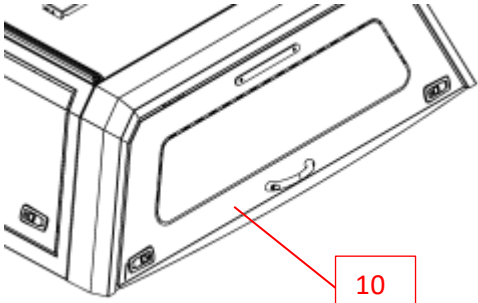

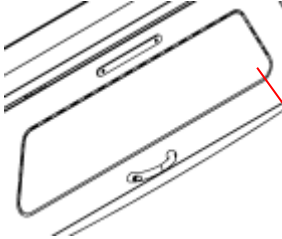


'492 Patent (annotated with non-functional elements identified above). The chart below provides a side by side comparison for the non-functional elements of the '492 Patent which are not present in the other truck bed caps you cited in your letter, as will discussed in greater detail below.

<u>Your Infringing Product</u>	<u>RSI Modular Truck Bed System</u>
	

<p>(1) Left side, top corner (2) Right side, top corner (3) Rear side, top corner (4) Front side, top corner</p>	<p>(1) Left side, top corner (2) Right side, top corner (3) Rear side, top corner (4) Front side, top corner</p>
	
<p>(7) Left front vertically oriented corner</p>	<p>(7) Left front vertically oriented corner</p>
	

<p>(5) Left rear vertically oriented corner (6) Right rear vertically oriented corner</p>	<p>(5) Left rear vertically oriented corner (6) Right rear vertically oriented corner</p>
	
<p>(9) Double chamfered top corners</p>	<p>(9) Double chamfered top corners</p>
	

<p>(9) Double chamfered top corners</p>	<p>(9) Double chamfered top corners</p>
 <p>9</p>	 <p>9</p>
<p>(10) Rear window set proportioned distinctly smaller than the rear door</p>	<p>(10) Rear window set proportioned distinctly smaller than the rear door</p>
 <p>10</p>	 <p>10</p>
<p>(11) Rear window having a trapezoidal shape with distinctly rounded corners</p>	<p>(11) Rear window having a trapezoidal shape with distinctly rounded corners</p>
 <p>11</p>	 <p>11</p>

The ornamental and non-functional features of your infringing product illustrated in the chart above embody the patented design or are a colorable imitation thereof.

Your letter also attempts to identify other truck bed caps and indicate that “nearly every truck cap ever produced shares the feature of a three-dimensional trapezoidal shape. You cite the A.R.E. Truck Cap, the Ranch Fiberglass Truck Cap, and the LEER Truck Cap to support your position. However, as illustrated below, none of the above identified ornamental and non-functional design elements are present in any of the cited truck caps:

Specifically, the A.R.E. Truck Cap includes rounded, non-chamfered corners, identified as A in the image below. None of the corners are double chamfered.



Specifically, the Ranch Fiberglass Truck Cap includes rounded, non-chamfered corners, identified as B in the image below. Again, none of the corners are double chamfered. The LEER Truck Cap also lacks any chamfered corners and also includes rounded corners identified as C in the image below. Among other distinctions, none of the rear windows comprise a prominent border which require notably smaller rear windows.

Ranch Fiberglass Truck CapLEER Truck Cap

As shown above, the truck caps cited in your letter comprise very little similar non-functional ornamental features compared to RSI's truck bed cap, if any at all. In particular, none of the truck caps above comprise anything similar to the distinctive chamfered corners and edges along the top of the truck bed cap's rear or side portions. As discussed above, the numbered chamfered edges and corners of the '492 Patent (as well as other RSI owned designs) are unique ornamental and non-functional features which belong only to RSI.

As disclosed in our initial letter, RSI owns additional patents and applications covering modular truck bed caps, including U.S. Design Patent Nos. D964,253, D961,491, D969,058, and D924,120, as well as U.S. Design Patent Application Nos. 29/773,561 and 29/797,771 among others.

This letter serves as notice, and demand, that BYND 4x4 and all associated entities immediately cease and desist from further infringement of our client RSI' intellectual property, including its applications and patents listed above. We reserve the right to address matters surrounding BYND's knock-off camp kitchens in due course.

We again demand that you immediately take the following actions:

1. Immediately cease and desist from further infringement of our client RSI's intellectual property, including its applications and patents listed above, through the making, selling, offering for sale, importing, or otherwise using the knock-off truck bed caps.
2. Immediately disable and remove the websites listed in our 2/22/23 letter from public access, including by working with search engines to de-index the website, and disable and remove any other similar websites incorporating your infringing products;

3. Provide the contact information for the manufacturer of the Tactical Cap;
4. Provide a full accounting of your companies' infringement of RSI designs, including (i) the number of knock-off truck bed caps acquired by your company; (ii) the number of knock-off truck bed caps you have sold to date; (iii) the identity of all of your customers of knock-off truck bed caps; and (iv) a statement of all of your revenues, profits and costs associated with your knock-off truck bed caps; and
5. Deliver any remaining knock-off truck bed caps to a certified destruction service, and send to us a certificate from the destruction service that certifies that the knock-off truck bed caps have been destroyed.

Please confirm in writing within **seven (7) days** of the date of this letter that you will comply with the demands set forth in this letter. RSI takes its intellectual property rights very seriously and reserves the right to pursue all available remedies. RSI does not waive any of the rights or remedies to which it is entitled, and nothing in this letter, nor any act or omission by RSI shall be construed as a waiver of any right or remedy possessed by RSI, all of which are expressly reserved.

Sincerely,

/Cara M. Pinto/

Cara M. Pinto